



**STATE OF MICHIGAN PROCUREMENT**  
**DTMB Central Procurement Services**  
 320 S. Walnut Street, 2<sup>nd</sup> Floor, North  
 Lansing, Michigan 48933

**NOTICE OF CONTRACT**

NOTICE OF CONTRACT NO. **220000000858**  
 between  
 THE STATE OF MICHIGAN  
 and

<b>CONTRACTOR</b>	Pitney Bowes, Inc
	3001 Summer Street
	Stamford, CT 06926
	Denise Beychok-Stevens
	225-931-8780
	denise.beychok@pb.com
	CV0001235

<b>STATE</b>	Program Manager	Various	Agency Acronym
		Phone Number	
		Email Address	
<b>Contract Administrator</b>		Alannah Doak	DTMB
		517-241-7000	
		DoakA@michigan.gov	

<b>CONTRACT SUMMARY</b>			
<b>DESCRIPTION: Postage and Mail Equipment</b>			
<b>INITIAL EFFECTIVE DATE</b>	<b>INITIAL EXPIRATION DATE</b>	<b>INITIAL AVAILABLE OPTIONS</b>	<b>EXPIRATION DATE BEFORE CHANGE(S) NOTED BELOW</b>
April 1, 2023	May 14, 2024	4, one-year	
<b>PAYMENT TERMS</b>		<b>DELIVERY TIMEFRAME</b>	
Net 45 Days		N/A	
<b>ALTERNATE PAYMENT OPTIONS</b>			<b>EXTENDED PURCHASING</b>
<input checked="" type="checkbox"/> P-card <input type="checkbox"/> Payment Request (PRC) <input type="checkbox"/> Other			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>MINIMUM DELIVERY REQUIREMENTS</b>			
N/A			
<b>MISCELLANEOUS INFORMATION</b>			
This Contract is a result of the NASPO Master Agreement # CTR058808			
<b>ESTIMATED CONTRACT VALUE AT TIME OF EXECUTION</b>			<b>\$5,000,000.00</b>

**FOR THE CONTRACTOR:**

\_\_\_\_\_  
**Company Name**

\_\_\_\_\_  
**Authorized Agent Signature**

\_\_\_\_\_  
**Authorized Agent** (Print or Type)

\_\_\_\_\_  
**Date**

**FOR THE STATE:**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Name & Title**

\_\_\_\_\_  
**Agency**

\_\_\_\_\_  
**Date**

## **MAILING EQUIPMENT, SUPPLIES AND MAINTENANCE**

Led by the **State of Arizona**

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Master Agreement #: **CTR058808**  
Contractor: **PITNEY BOWES INC.**  
Participating Entity: **STATE OF MICHIGAN**

This Participating Addendum is entered into by Contractor and Participating Entity (collectively, the "Parties")

### **Scope and Participation:**

1. Scope:

- This Participating Addendum includes the entire scope of the products and services available through the Master Agreement referenced above.
- This Participating Addendum includes the entire scope of the products and services available through the Master Agreement referenced above, except the following:

Any scope exclusions specified herein apply only to this Participating Addendum and shall not amend or affect other participating addendums or the Master Agreement itself.

2. Participation: This Participating Addendum covers participation of Participating Entity in the above-referenced Master Agreement between the State of Arizona and Contractor for Mailing Equipment, Supplies and Maintenance. This Participating Addendum may be used by all state agencies. In addition, this Participating Addendum also covers MiDeal members as set forth in Exhibit 1. MiDeal members who are non-profit organizations would be subject to Contractor's commercial terms.

3. Term:

- This Participating Addendum shall become effective as of the date of the last signature below and shall terminate upon the expiration or termination of the Master Agreement, as amended, unless the Participating Addendum is otherwise terminated in accordance with the terms set forth herein.
- This Participating Addendum shall become effective as of the date of the last signature below and shall terminate on [date], unless terminated sooner or otherwise amended in accordance with the terms set forth herein. Notwithstanding the previous, in no event shall the term of the Participating Addendum exceed the term of the Master Agreement, as amended.

4. Primary Contacts: The following (or their named successors) are the primary contact individuals for this Participating Addendum:

**MAILING EQUIPMENT, SUPPLIES AND MAINTENANCE**  
Led by the **State of Arizona**

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**CONTRACTOR: PITNEY BOWES INC.**

Name:	Art Adams, Director Government Contract Compliance
Address:	Pitney Bowes Inc. 3001 Summer Street, Stamford, CT 06926
Telephone:	(203) 351-7866
Fax:	(203) 460-3827
Email:	<a href="mailto:art.adams@pb.com">art.adams@pb.com</a>

**PARTICIPATING ENTITY: STATE OF MICHIGAN**

Name:	Jared Ambrosier, Chief Procurement Officer
Address:	Elliott-Larsen, 320 Walnut St, 2 <sup>nd</sup> Fl, North Tower, Lansing, MI 48933
Telephone:	517-243-6238
Fax:	517-284-7097
Email:	<a href="mailto:ambrosierj@michigan.gov">ambrosierj@michigan.gov</a>

**Participating Entity Modifications and Additions to the Master Agreement**

- This Participating Addendum incorporates all terms and conditions of the Master Agreement as applied to the Participating Entity and Contractor.
- This Participating Addendum incorporates all terms and conditions of the Master Agreement as applied to the Participating Entity and Contractor, subject to the following limitations, modifications and additions:

**Exhibit # 1 To State of Michigan Participating Addendum - Michigan Additional Terms**

**Schedule A- Reserved**

**Schedule B- Reserved**

**Schedule C – Insurance Requirements**

**Schedule D – Back-Up and Recovery**

**Schedule E – Data Security Requirements for Purchases**

**Schedule F – Federal Provisions Addendum**

**Schedule G – Disaster Recovery Plan**

**Schedule H.1 – On-Premise Software License Agreement**

## **MAILING EQUIPMENT, SUPPLIES AND MAINTENANCE**

Led by the **State of Arizona**

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### **Schedule H.2 - On-Demand Subscription Services Agreement**

### **Schedule I.1 – State and Local Lease to Own Term Rental – Option A**

### **Schedule I.2 - State and Local Fair Market Value Rental – Option B**

### **Schedule I.3 – State and Local Fair Market Value Lease – Option C**

Any limitations, modifications, or additions specified herein apply only to the agreement and relationship between Participating Entity and Contractor and shall not amend or affect other participating addendums or the Master Agreement itself.

5. Lease Agreements: Leasing is authorized by this Addendum Schedule I.1 through I.3 reflect the lease and/or rental options Participating State/Entity has agreed to use Pitney Bowes' leasing arm Pitney Bowes Global Financial Services, LLC. Any underlying leases to this agreement will remain in full force and effect throughout the stated lease term of such lease agreement, subject to termination provisions stipulated within such lease. All lease payments will be billed by and should be remitted to Pitney Bowes Global Financial Services, LLC. The following, together with their respective terms and conditions are offered for lease or rental transactions under this Participating Addendum.

- a) Pitney Bowes Global Financial Services LLC "GFS" Term Rental (Installment Purchase) – Option A,
- b) FMV Rental – Option B, and
- c) State & Local Fair Market Value Lease – Option C

ii. To the extent a Schedule or Exhibit to this PA calls for payment to PBGFS, the following apply:

1. all such payments received by PBGFS shall relieve the Purchasing Entity from its payment obligations as to the applicable invoice; and further, any such payment to PBGFS shall not relieve Contractor of its obligations under the Contract with respect to which it has assigned payment;
2. for each payment Contractor assigns, it waives all rights and claims against the State that it now has or may have in connection with the payment;
3. all payments the State makes make to Contractor's assigned affiliate will discharge the State of that payment obligation under the applicable Order, and

## **MAILING EQUIPMENT, SUPPLIES AND MAINTENANCE**

Led by the **State of Arizona**

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4. the State is not obligated to pay or reimburse Contractor or to otherwise give effect to any costs, taxes, or other expenses directly or indirectly arising out of or resulting from such assignment of a lease payment.
6. Subcontractors: All contractors, dealers, and resellers authorized to provide sales and service support in Participating Entity's state, as shown on Contractor's NASPO ValuePoint-specific webpage, may provide sales and service support to users of this Participating Addendum. Participation of Contractor's contractors, dealers, and resellers will be in accordance with the terms and conditions set forth in the Master Agreement.
7. Orders: The Purchasing Entity will request all Contract Activities through Orders to Contractor. Any Order placed by a Purchasing Entity for a product or service offered through this Participating Addendum shall be deemed to be a sale under, and subject to the pricing and other terms and conditions of, the Master Agreement.
8. Price Agreement Number:  
All purchase orders issued by Purchasing Entities within the jurisdiction of this Participating Addendum shall include the Participating Entity's/State's contract number: 220000000858 and the Lead State price agreement number: CTR058808.
9. Software licenses applicable to our on-demand and on-premise product offerings are attached hereto as Schedule H.1 and H.2.
10. All Purchasing Entities requiring the use of a Postage Meter, will comply with all United States Postal Service regulations and meter terms and conditions applicable to the rental and use of postage meters supplied under this Participating Addendum.

### **ENTIRE AGREEMENT**

This Participating Addendum together with all Schedules and Exhibits, and the Master Agreement number CTR058808 (administered by the State of Arizona) together with its exhibits, (collectively the "Contract") set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof.

If there is a conflict between documents, the order of precedence is: (a) first, this Participating Addendum, including Contractor's On-Demand and On-Premise terms attached hereto as Schedules H.1 and H.2, (b) second Exhibit 1 to this Participating Addendum (c) third Schedule E – Data Security Requirements(d) fourth, the Master Agreement; and (e) fifth, the remaining Exhibits and Schedules expressly incorporated into this Contract NO TERMS ON CONTRACTOR'S INVOICES, ORDERING DOCUMENTS, WEBSITE, BROWSE-WRAP, SHRINK-WRAP, CLICK-WRAP, CLICK-THROUGH OR OTHER NON-NEGOTIATED TERMS AND CONDITIONS PROVIDED WITH ANY OF



**MAILING EQUIPMENT, SUPPLIES AND MAINTENANCE**  
Led by the **State of Arizona**

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THE CONTRACT ACTIVITIES OR DOCUMENTATION HEREUNDER, EVEN IF ATTACHED TO THE STATE'S DELIVERY OR PURCHASE ORDER, WILL CONSTITUTE A PART OR AMENDMENT OF THIS CONTRACT OR IS BINDING ON THE STATE FOR ANY PURPOSE. ALL SUCH OTHER TERMS AND CONDITIONS HAVE NO FORCE AND EFFECT AND ARE DEEMED REJECTED BY THE STATE, EVEN IF ACCESS TO OR USE OF THE CONTRACT ACTIVITIES REQUIRES AFFIRMATIVE ACCEPTANCE OF SUCH TERMS AND CONDITIONS. NO PRE-PRINTED TERMS ON PURCHASING ENTITY'S PURCHASE ORDER SHALL APPLY.

IN WITNESS WHEREOF, the Parties have executed this Participating Addendum.

**PARTICIPATING ENTITY**

**CONTRACTOR**

Signature:	Signature:
Name:	Name:
Title:	Title:
Date:	Date:

For questions regarding NASPO ValuePoint Participating Addendums, please contact the Cooperative Contract Coordinator team at [info@naspovaluepoint.org](mailto:info@naspovaluepoint.org).

Fully executed NASPO ValuePoint Participating Addendums must be submitted via email in PDF format to [pa@naspovaluepoint.org](mailto:pa@naspovaluepoint.org).

# EXHIBIT # 1 TO STATE OF MICHIGAN PARTICIPATING ADDENDUM TO MASTER AGREEMENT # CTR058808

The parties agree as follows:

## 1. Definitions

- (1) **“Documentation”** means all user manuals, operating manuals, technical manuals and any other instructions, specifications, documents or materials, in any form or media, that describe the functionality, installation, testing, operation, use, maintenance, support, technical or other components, features or requirements of the Software or Contract Activities.
- (2) **“Equipment”** means the items described or identified in the Pricing Schedule, together with any and all additions, modifications, attachments, accessions, substitutions, replacements and parts thereof. All references herein to “Equipment” will (i) include Software unless otherwise expressly provided in the Lease Schedule.
- (3) **Services** means all services available under the Master Agreement, including, without limitation, preventive maintenance, repair service, call center and customer service-related services, and software maintenance and support, software consulting, in addition to Hosted Services, as defined in this Contract.
- (4) **Software** means Contractor’s software or other software Contractor is providing under the Contract or that is otherwise provided and necessary for the State’s use of Equipment and/or Contractor’s provision of Contract Activities, including any “Embedded Software” as defined in the Master Agreement, and any software as may be set forth in a Statement of Work or Delivery Order.

## 2. Duties of Contractor. Contractor must perform the Services and provide the Equipment, and Software (the **“Contract Activities”**) in accordance with the requirements of the Contract.

Contractor must furnish all labor, equipment, materials, and supplies necessary for the performance of the Contract Activities as specified in an applicable Order or Statement of Work.

Contractor must make available for purchase, lease or rental, as applicable, the Equipment, Products, and Services pursuant to Orders issued by the State under this Contract.



With respect to each Equipment leased or rented, the lease or rental term, as applicable, begins upon delivery if the State is installing/setting up and upon installation and set up if Contractor is setting up and installing. Each initial lease or rental term as to each Equipment will continue until the end of the current State fiscal year and will continue through each subsequent State fiscal year during the Term, subject to the State’s right to terminate under Sections 22 and 23, and 24 of this Ex 1 or the termination provisions in the applicable lease.

During the lease or rental term, the State has the right to possession of and right to use said Equipment in accordance with the terms of the Contract.

For each Equipment delivered to the State, Contractor shall make available documentation describing in detail the Equipment. Such documentation can be provided to the State in electronic form or via a weblink.

Contractor must: (a) perform the Contract Activities in a timely, professional, safe, and workmanlike manner consistent with standards in the trade, profession, or industry; (b) meet or exceed the performance and operational standards, and specifications of the Contract; (c) provide all Contract Activities in good quality, with no material defects; (d) not interfere with the State’s operations; (e) obtain and maintain all necessary licenses, permits or other authorizations necessary for the performance of the Contract; (f) cooperate with the State, including the State’s quality assurance personnel, and any third party to achieve the objectives of the Contract; (g) return to the State any State-furnished equipment or other resources in the same condition as when provided when no longer required for the Contract; (h) assign to the State any claims resulting from state or federal antitrust violations to the extent that those violations concern materials or services supplied by third parties toward fulfillment of the Contract; (i) comply with all State physical and IT security policies and standards which will be made available upon request; and (j) work in good faith to provide the State priority support in performance of the Contract except as mandated by federal disaster response requirements. Any breach under this paragraph is considered a material breach.

Contractor must also be clearly identifiable while on State property by wearing identification issued by the State, and clearly identify themselves whenever making contact with the State.

- 3. **Notices.** All notices and other communications required or permitted under this Contract must be in writing and will be considered given and received: (a) when verified by written receipt if sent by courier; (b) when actually received if sent by mail without verification of receipt; or (c) when verified by automated receipt or electronic logs if sent by facsimile or email.

If to State:	If to Contractor:
<b>See Contract Administrator information shown below.</b>	Art Adams, Director Government Contract Compliance 3001 Summer St Stamford, CT 06926 art.adams@pb.com 203-351-7866

4. **Contract Administrator.** The Contract Administrator, or the individual duly authorized for each party, is the only person authorized to modify any terms of this Contract, and approve and execute any change under this Contract (each a “**Contract Administrator**”):

State:	Contractor:
Alannah Doak DTMB Central Procurement 320 S Walnut St, 2nd Floor Lansing, MI 48933 DoakA@Michigan.Gov 517-230-9424	Art Adams, Director Government Contract Compliance 3001 Summer St Stamford, CT 06926 art.adams@pb.com 203-351-7866

5. **Program Manager.** The Program Manager for each party will monitor and coordinate the day-to-day activities of the Contract (each a “**Program Manager**”):

State:	Contractor:
See cover sheet or most recent change notice for Program Manager Information.	Brad Lang Government Account Manager - State of Michigan 586 243 3685 bradley.lang@pb.com

6. [INTENTIONALLY OMITTED]

7. **Insurance Requirements. See Schedule C.**

8. **Administrative Fee and Reporting** Contractor must pay an administrative fee of 1% on all payments made to Contractor under the Contract including transactions with the State (including its departments, divisions, agencies, offices, and commissions), MiDEAL members, and other states (including governmental subdivisions and authorized entities). Administrative fee payments must be made online by check or credit card at: <https://www.thepayplace.com/mi/dtmb/adminfee>.

Contractor must submit an itemized purchasing activity report, which includes at a minimum, the name of the purchasing entity and the total dollar volume in sales. Reports should be mailed to [MiDeal@michigan.gov](mailto:MiDeal@michigan.gov).

The administrative fee and purchasing activity report are due within 30 calendar days from the last day of each calendar quarter.

9. **Extended Purchasing Program.** This contract is extended to MiDEAL members. MiDEAL members include local units of government, school districts, universities, community colleges, and nonprofit hospitals. A current list of MiDEAL members is available at [www.michigan.gov/mideal](http://www.michigan.gov/mideal).

If extended, Contractor must supply all Contract Activities at the established Contract prices and terms. The State reserves the right to impose an administrative fee and negotiate additional discounts based on any increased volume generated by such extensions.

Contractor must submit invoices to, and receive payment from, extended purchasing program members on a direct and individual basis.

- 10. Relationship of the Parties.** The relationship between the parties is that of independent contractors. Contractor, its employees, and agents will not be considered employees of the State. No partnership or joint venture relationship is created by virtue of this Contract. Contractor, and not the State, is responsible for the payment of wages, benefits and taxes of Contractor's employees and any subcontractors. Prior performance does not modify Contractor's status as an independent contractor. Neither party has authority to contract for nor bind the other party in any manner whatsoever.
- 11. A. Intellectual Property Rights.** Contractor and/or its licensors retain all ownership rights to all Software and the State obtains no rights in the Software except as expressly provided in the Contract.

**B. License Grant by Contractor** – See Schedules attached to the Participating Addendum-On-Demand and/or On-Premise Software Terms.
- 12. Subcontracting.** Except as provided in the Participating Addendum section 5, Contractor may not delegate any of its obligations under the Contract without the prior written approval of the State. Contractor remains responsible for the completion of the Contract Activities, compliance with the terms of this Contract, and the acts and omissions of the subcontractor.
- 13. Staffing.** The State's Contract Administrator may require Contractor to remove or reassign personnel providing services by providing a notice to Contractor.
- 14. Background Checks.** Contractor shall perform its' standard background checks on all employees and subcontractors and its employees prior to their employment with Contractor. Contractor shall confirm, upon request, that employees and subcontractors have successfully passed Contractor's standard background check. Pursuant to Michigan law, all agencies subject to IRS Pub. 1075 are required to ask the Michigan State Police to perform fingerprint background checks on all employees, including Contractor and Subcontractor employees, who may have access to any database of information maintained by the federal government that contains confidential or personal information, including, but not limited to, federal tax information. Further, pursuant to Michigan law, any agency described above is prohibited from providing Contractors or Subcontractors with the result of such background check. For more information, please see Michigan Public Act 427 of 2018. Upon request, or as may be specified in a Statement of Work, Contractor must perform background checks on all employees and subcontractors and its employees prior to their assignment. The scope is at the discretion of the State and documentation must be provided as requested. Contractor is responsible for all costs associated with the requested background checks. The State, in its sole discretion, may also perform background checks. The parties agree that Contractor's employees will not have access to the aforementioned types of information.
- 15. Assignment.** Except as provided herein, Contractor may not assign the Participating Addendum to any other party without the prior approval of the State, which consent

shall not be unreasonably withheld, conditioned or delayed. Upon notice to Contractor, the State, in its sole discretion, may assign in whole or in part, its rights or responsibilities under this Contract to any other party. If the State determines that a novation of the Contract to a third party is necessary, Contractor will agree to the novation and provide all necessary documentation and signatures. In no event shall the State assign or novate the Participating Addendum to a competitor of Contractor.

- 16. Change of Control.** Contractor will notify the State, within a reasonable amount of time after a of any public announcement or otherwise once legally permitted to do so, of a change in Contractor's organizational structure or ownership. For purposes of this Contract, a change in control means any of the following: (a) a sale of more than 50% of Contractor's stock; (b) a sale of substantially all of Contractor's assets; (c) consummation of a merger or consolidation of Contractor with any other entity; (d) a change in ownership through a transaction or series of transactions; (fe or the board (or the stockholders) approves a plan of complete liquidation. A change of control does not include any consolidation or merger effected exclusively to change the domicile of Contractor, or any transaction or series of transactions principally for bona fide equity financing purposes.

In the event of a change of control, Contractor must require the successor to assume this Contract and all of its obligations under this Contract.

- 17. Acceptance.** Contract Activities are subject to inspection and testing by the State within 30 calendar days of the State's receipt of them, unless a different time period is specified in an applicable Statement of Work, ("State Review Period"). If the Contract Activities are not fully accepted by the State by the end of the State Review Period, the State will notify Contractor by the end of the State Review Period that either: (a) the Contract Activities are accepted but noted deficiencies must be corrected; or (b) the Contract Activities are rejected. If the State finds material deficiencies, it may: (i) reject the Contract Activities without performing any further inspections; (ii) demand performance at no additional cost; or (iii) terminate the applicable Order and/or this Contract in accordance with Section 22, Termination for Cause.

If the State delivers to the Contractor a notice of deficiencies, the Contractor will correct the described deficiencies and within 30 Days resubmit the Product(s) with an explanation that demonstrates all corrections have been made to the original Product(s). The Contractor's correction efforts will be made at no additional charge. Upon receipt of a corrected Product from the Contractor, the State will have a reasonable additional period of time, not to exceed 30 Days, to accept or reject the corrected Product.

- 18. Delivery.** Delivery is per NASPO Master CTR058808 NASPO Terms Section VIII. Contractor must deliver all Contract Activities F.O.B. destination, within the State premises with transportation and handling charges paid by Contractor, unless otherwise specified in a Schedule. All containers and packaging become the State's exclusive property upon Acceptance.
- 19. Risk of Loss and Title.** Risk of loss or damage to Equipment remains with Contractor until (1) delivery at the Participating Entity's premises or (2) acceptance by the Participating Entity if acceptance criteria is set forth in the statement of work attached to a specific Order. Contractor is responsible for filing, processing, and

collecting all damage claims up to the point of delivery. The State will record and report to Contractor any evidence of visible damage. If the State rejects the Equipment, Contractor must remove them from the premises within 15 calendar days after notification of rejection. The risk of loss of rejected or non-conforming Equipment remains with Contractor. The Contractor shall bear all loss of conforming material covered under the Participating Addendum until received by authorized personnel at the location designated in the purchase order or Participating Addendum. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt provided, however, that the State shall be deemed to have accepted a Product as to which it doesn't indicate nonconformity within thirty (30) days of its installation.

- 20. Warranty Period.** The warranty provisions of the NASPO Master CTR058808 Section 6 subsection X apply.
- 21. Invoices and Payment.** Invoices must conform to the requirements communicated from time-to-time by the State. All undisputed amounts are payable within 45 days of the State's receipt, subject to MCL 17.51-1757. Contractor may only charge for Contract Activities provided as specified in this Contract. Invoices must include an itemized statement of all charges. The State is exempt from State sales tax for direct purchases and may be exempt from federal excise tax, if Services purchased under this Agreement are for the State's exclusive use. Notwithstanding the foregoing, all fees are exclusive of taxes, and Contractor is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by the State under this Contract.

The State has the right to withhold payment of any disputed amounts until the parties agree as to the validity of the disputed amount. The State will notify Contractor of any dispute within a reasonable time. Payment by the State will not constitute a waiver of any rights as to Contractor's continuing obligations, including claims for deficiencies or substandard Contract Activities. Contractor's acceptance of final payment by the State constitutes a waiver of all claims by Contractor against the State for payment under this Contract, other than those claims previously filed in writing on a timely basis and still disputed.

The State will only disburse payments under this Contract through Electronic Funds Transfer (EFT). Contractor must register with the State at <http://www.michigan.gov/SIGMAVSS> to receive electronic fund transfer payments. If Contractor does not register, the State is not liable for failure to provide payment. Without prejudice to any other right or remedy it may have, the State reserves the right to set off at any time any amount then due and owing to it by Contractor against any amount payable by the State to Contractor under this Contract.

Excluding federal government charges and terms, Contractor warrants and agrees that each of the fees, economic or product terms or warranties granted pursuant to this Contract are comparable to or better than the equivalent fees, economic or product term or warranty being offered to any commercial or government customer (including any public educational institution within the State of Michigan) of Contractor. If Contractor enters into any arrangements with another customer of

Contractor to provide the products or services, available under this Contract, under more favorable prices, as the prices may be indicated on Contractor's current U.S. and International price list or comparable document, then this Contract will be deemed amended as of the date of such other arrangements to incorporate those more favorable prices, and Contractor will immediately notify the State of such fee and formally memorialize the new pricing in a change notice.

- 22. Termination for Cause.** The State may terminate this Contract for cause, in whole or in part, including any lease, rental, or Delivery Order, if Contractor, as determined by the State: (a) endangers the, integrity, or security of any location, Confidential Information, or personnel and fails to cure the breach within the time stated in the notice; (b) becomes insolvent, petitions for bankruptcy court proceedings, or has an involuntary bankruptcy proceeding filed against it by any creditor; (c) breaches any of its material duties or obligations and fails to cure a breach, within thirty (30) days of receipt of a notice of breach. Any reference to specific breaches being material breaches within this Contract will not be construed to mean that other breaches are not material.

If the State terminates this Contract under this Section, the State will issue a termination notice specifying whether Contractor must: (a) cease performance immediately, or (b) continue to perform for a specified period. If it is later determined that Contractor was not in breach of the Contract, the termination will be deemed to have been a Termination for Convenience, effective as of the same date, and the rights and obligations of the parties will be limited to those provided in Section 23, Termination for Convenience.

The State will only pay for amounts due to Contractor for Contract Activities accepted by the State on or before the date of termination subject to the State's right to set off any amounts owed by the Contractor for the State's reasonable costs in terminating this Contract.

- 23. Termination for Convenience.** The State may fully or partially terminate the Contract or any Order for its convenience or if the State or the applicable Purchasing Entity determines that a termination is in the State's or applicable Purchasing Entity's best interest, subject to any applicable termination fees set forth in the applicable lease agreement. Reasons for the termination are within the sole discretion of the State and may include: (a) the State no longer needs the Contract Activities specified in the Contract; (b) a relocation of office, program changes, or changes in laws, rules, or regulations make the Contract Activities no longer practical or feasible for the State; or (c) unacceptable prices for Contract changes. The State may terminate this Contract for its convenience by giving Contractor notice at least 30 days before the date of termination. If the Participating Addendum is terminated for convenience so as to preclude any new Orders, the Contract will remain in effect as to any existing leases, rentals, maintenance and/or software license/subscription agreements entered into before such termination of the Participating Addendum.

- 24. Termination for Non-Appropriation.** If sufficient funds to enable the State to continue payment are not appropriated, negatively appropriated, if there is a budget shortfall, or funds are otherwise not made available for a subsequent fiscal year, the State may fully or partially terminate the Contract or any Order, including any lease or

rental, immediately at the end of the last period for which funds have been appropriated or otherwise made available for lease and/or rental. The State must give the Contractor notice as soon as practical, but failure to provide such notice does not impact the State's right to terminate for non-appropriation. If the State fully or partially terminates the Participating Addendum for non-appropriation, the State must pay the Contractor for all Contract Activities performed through the effective date of the termination to the extent funds are available.

**25. Transition Responsibilities.** Upon termination or expiration of this Participating Addendum for any reason, Contractor must, for a period of time specified by the State (not to exceed 90 calendar days), provide all reasonable transition assistance requested by the State to allow for the expired or terminated portion of the Contract Activities to continue without interruption or adverse effect. Such transition assistance may include, but is not limited to: (a) continuing to perform the Contract Activities at the established Contract rates; (b) taking all necessary and appropriate steps, or such other action as the State may direct, to preserve, maintain, protect, or return to the State all materials, data, property, and confidential information provided directly or indirectly to Contractor by any entity, agent, vendor, or employee of the State; (d) delivering to the State, at the State's discretion, all completed or partially completed deliverables prepared under this Contract as of the Contract termination date; and (e) preparing an accurate accounting from which the State and Contractor may reconcile all outstanding accounts (collectively, "**Transition Responsibilities**"). This Contract will automatically be extended through the end of the transition period. If the Participating Addendum is terminated for convenience so as to preclude any new Orders, the Contract will remain in effect as to any existing leases, rentals, maintenance and/or software license/subscription agreements entered into before such termination of the Participating Addendum.

**26. Indemnification.** Contractor must defend, indemnify and hold the State, its departments, divisions, agencies, offices, commissions, officers, and employees harmless, without limitation, from and against any and all actions, claims, losses, liabilities, damages, costs, attorney fees, and expenses (including those required to establish the right to indemnification) asserted by a third party and arising out of or relating to: (a) any breach by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable) of any of the promises, agreements, representations, warranties, or insurance requirements contained in this Contract; (b) any infringement, misappropriation, or other violation of any intellectual property right or other right of any third party; (c) any bodily injury, death, or damage to real or tangible personal property occurring wholly or in part due to action or inaction by Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable); and (d) any acts or omissions of Contractor (or any of Contractor's employees, agents, subcontractors, or by anyone else for whose acts any of them may be liable). Each party is responsible for its own negligence.

The State will notify Contractor in writing if indemnification is sought; however, failure to do so will not relieve Contractor, except to the extent that Contractor is materially prejudiced.

The State is entitled to: (i) regular updates on proceeding status; (ii) participate in the defense of the proceeding; (iii) employ its own counsel; and to (iv) retain control of the defense, at its own cost and expense, if the State deems necessary. Contractor will not, without the State's prior written consent (not to be unreasonably withheld), settle, compromise, or consent to the entry of any judgment in or otherwise seek to terminate any claim, action, or proceeding.

Any litigation activity on behalf of the State, or any of its subdivisions under this Section, must be coordinated with the Department of Attorney General. An attorney designated to represent the State may not do so until approved by the Michigan Attorney General and appointed as a Special Assistant Attorney General.

The State is constitutionally prohibited from indemnifying Contractor or any third parties.

- 27. Infringement Remedies.** If, in either party's opinion, any piece of equipment, software, commodity, or service supplied by Contractor or its subcontractors, or its operation, use or reproduction, is likely to become the subject of a copyright, patent, trademark, or trade secret infringement claim, Contractor must, at its expense: (a) procure for the State the right to continue using the equipment, software, commodity, or service, or if this option is not reasonably available to Contractor, (b) replace or modify the same so that it becomes non-infringing; or (c) accept its return by the State with appropriate credits to the State against Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.
- 28. Limitation of Liability and Disclaimer of Damages.** **IN NO EVENT WILL THE STATE'S AGGREGATE LIABILITY TO CONTRACTOR UNDER THIS CONTRACT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE MAXIMUM AMOUNT OF FEES PAYABLE UNDER THE APPLICABLE DELIVERY ORDER.** Neither the Contractor nor The State shall be liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.
- 29. Disclosure of Litigation, or Other Proceeding.** Contractor must notify the State within 14 calendar days of receiving notice of any litigation, investigation, arbitration, or other proceeding (collectively, "**Proceeding**") involving Contractor, a subcontractor, or an officer or director of Contractor or subcontractor, that arises during the term of the Contract that in reasonable consideration, could negatively impact Contractor's ability to perform its obligations under the Contract, including: (a) a criminal Proceeding; (b) a parole or probation Proceeding; (c) a Proceeding under the Sarbanes-Oxley Act; (d) a civil Proceeding involving: (1) a claim that might reasonably be expected to adversely affect Contractor's viability or financial stability; or (2) a governmental or public entity's claim or written allegation of fraud; or (3) any complaint filed in a legal or administrative proceeding alleging the Contractor or its subcontractors discriminated against its employees, subcontractors, vendors, or suppliers during the term of this Contract; or (e) a Proceeding involving any license that Contractor is required to possess in order to perform under this Contract.



### 30. State Data.

- a. **Ownership.** The State's data ("**State Data**," which will be treated by Contractor as Confidential Information) includes: (a) User Data; and (a) any other data collected, used, processed, stored, or generated as the result of the Contract Activities, including but not limited to: (i) personally identifiable information ("**PII**") collected, used, processed, stored, or generated as the result of the Contract Activities, including, without limitation, any information that identifies an individual, such as an individual's social security number or other government-issued identification number, date of birth, address, telephone number, biometric data, mother's maiden name, email address, credit card information, or an individual's name in combination with any other of the elements here listed; and (ii) protected health information ("**PHI**") collected, used, processed, stored, or generated as the result of the Contract Activities, which is defined under the Health Insurance Portability and Accountability Act (HIPAA) and its related rules and regulations. State Data is and will remain the sole and exclusive property of the State and all right, title, and interest in the same is reserved by the State.
- b. **Contractor Use of State Data.** Contractor is provided a limited license to State Data for the sole and exclusive purpose of providing the Contract Activities, including a license to collect, process, store, generate, and display State Data only to the extent necessary in the provision of the Contract Activities. Contractor must: (a) keep and maintain State Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Contract and applicable law to avoid unauthorized access, use, disclosure, or loss; (b) use and disclose State Data solely and exclusively for the purpose of providing the Contract Activities, such use and disclosure being in accordance with this Contract, any applicable Statement of Work, and applicable law; (c) keep and maintain State Data in the continental United States and (d) not use, sell, rent, transfer, distribute, commercially exploit, or otherwise disclose or make available State Data for Contractor's own purposes or for the benefit of anyone other than the State without the State's prior written consent. Contractor's misuse of State Data may violate state or federal laws, including but not limited to MCL 752.795.
- c. **Extraction of State Data.** Contractor must, within 5 business days of the State's request, provide the State, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor), an extract of the State Data in a comma separated format (csf) or other format agreed upon by the parties.
- d. **Backup and Recovery of State Data.** Unless otherwise specified in a Schedule, Contractor is responsible for maintaining a backup of State Data and for an orderly and timely recovery of such data. Unless otherwise described in Schedule A, Contractor must maintain a contemporaneous backup of State Data that can be recovered within 2 hours at any point in time.
- e. **Discovery.** Contractor will immediately notify the State upon receipt of any requests which in any way might reasonably require access to State Data,

Software, or the State's use of the Hosted Services, if applicable. Contractor will notify the State Program Managers or their designees by the fastest means available and also in writing. In no event will Contract provide such notification more than twenty-four (24) hours after Contractor receives the request. Contractor will not respond to subpoenas, service of process, FOIA requests, and other legal requests related to the State without first notifying the State and obtaining the State's prior approval of Contractor's proposed responses. Contractor agrees to provide its completed responses to the State with adequate time for State review, revision and approval.

- f. Loss or Compromise of Data.** In the event of any act, error or omission, negligence, misconduct, or breach on the part of Contractor that compromises or is suspected to compromise the security, confidentiality, or integrity of State Data (excluding unsuccessful or inconsequential incidents that do not represent a material threat to confidentiality, integrity or availability of State Data or Confidential Information (such as scans, pings, or unsuccessful attempts to penetrate computer networks) or the physical, technical, administrative, or organizational safeguards put in place by Contractor that relate to the protection of the security, confidentiality, or integrity of State Data, Contractor must, as applicable: (a) notify the State as soon as practicable but no later than 72 hours of becoming aware of such occurrence; (b) cooperate with the State in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by the State; (c) in the case of PII or PHI, at the State's sole election, (i) with approval and assistance from the State, notify the affected individuals who comprise the PII or PHI as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legally required notification period, within 5 calendar days of the occurrence; or (ii) reimburse the State for any costs in notifying the affected individuals; (d) in the case of PII, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for no less than 12 months following the date of notification to such individuals; (e) perform or take any other actions required to comply with applicable law as a result of the occurrence; (f) pay for any costs associated with the occurrence, including but not limited to any costs incurred by the State in investigating and resolving the occurrence, including reasonable attorney's fees associated with such investigation and resolution; (g) without limiting Contractor's obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless the State for any and all claims, including reasonable attorneys' fees, costs, and incidental expenses, which may be suffered by, accrued against, charged to, or recoverable from the State in connection with the occurrence; and (h) provide to the State a detailed plan within 10 calendar days of the occurrence describing the measures Contractor will undertake to prevent a future occurrence. Notification to affected individuals, as described above, must comply with applicable law, be written in plain language, not be tangentially used for any solicitation purposes, and contain, at a minimum: name and contact information of Contractor's representative; a description of the nature of the loss; a list of the

types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Contractor has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Contractor. The State will have the option to review and approve any notification sent to affected individuals prior to its delivery. Notification to any other party, including but not limited to public media outlets, must be reviewed and approved by the State in writing prior to its dissemination. The parties agree that any damages relating to a breach of this **Section 30** are to be considered direct damages and not consequential damages.

**g. Definitions.**

(1) **“User Data”** means all data, information and other content of any type and in any format, medium or form, whether audio, visual, digital, screen, GUI or other, that is input, uploaded to, placed into or collected, stored, Processed, generated or output by any device, system or network by or on behalf of the State, including any and all data, analyses and other information and materials resulting from any use of the Software by or on behalf of the State under this Contract, except that User Data does not include the Software or data, information or content, including any GUI, audio, visual or digital or other display or output, that is generated automatically upon executing the Software without additional user input without the inclusion of user derived Information or additional user input.

**31. Non-Disclosure of Confidential Information.** The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties.

**a. Meaning of Confidential Information.** For the purposes of this Contract, the term **“Confidential Information”** means all information and documentation of a party that: (a) has been marked “confidential” or with words of similar meaning, at the time of disclosure by such party; (b) if disclosed orally or not marked “confidential” or with words of similar meaning, was subsequently summarized in writing by the disclosing party and marked “confidential” or with words of similar meaning; or, (c) should reasonably be recognized as confidential information of the disclosing party. The term “Confidential Information” does not include any information or documentation that was, or is: (a) subject to disclosure under the Michigan Freedom of Information Act (FOIA); (b) already in the possession of the receiving party without an obligation of confidentiality; (c) developed independently by the receiving party, as demonstrated by the receiving party, without violating the disclosing party’s proprietary rights; (d) obtained from a source other than the disclosing party without an obligation of confidentiality; or, (e) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of, the receiving party). For purposes of this Contract, in all cases and for all matters, State Data is deemed to be Confidential Information.

- b. Obligation of Confidentiality.** The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Contract or to use such Confidential Information for any purposes whatsoever other than the performance of this Contract. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep all Confidential Information confidential. Disclosure to a subcontractor is permissible where: (a) use of a subcontractor is authorized under this Contract; (b) the disclosure is necessary or otherwise naturally occurs in connection with work that is within the subcontractor's responsibilities; and (c) Contractor obligates the subcontractor in a written contract to maintain the State's Confidential Information in confidence. At the State's request, any employee of Contractor or any subcontractor may be required to execute a separate agreement to be bound by the provisions of this Section.
- c. Cooperation to Prevent Disclosure of Confidential Information.** Each party must use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the foregoing, each party must advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Contract and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.
- d. Remedies for Breach of Obligation of Confidentiality.** Each party acknowledges that breach of its obligation of confidentiality may give rise to irreparable injury to the other party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, a party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, in the case of the State, at the sole election of the State, the immediate termination of the Participating Addendum or an applicable Order for cause, without liability to the State.
- e. Surrender of Confidential Information upon Termination.** Upon termination of this Contract or a Statement of Work, in whole or in part, each party must, within 10 business days from the date of termination, return to the other party any and all Confidential Information received from the other party, or created or received by a party on behalf of the other party, which are in such party's possession, custody, or control; provided, however, that Contractor must return State Data to the State following the timeframe and procedure described further in this Contract. Should Contractor or the State determine that the return of any Confidential Information is not feasible, such party must destroy the Confidential Information and must certify the same in writing within 10 business days from the date of termination to the other party. However, the State's legal ability to destroy Contractor data may be restricted by its retention and disposal schedule, in which

case Contractor's Confidential Information will be destroyed after the retention period expires.

### 32. Data Privacy and Information Security.

- a. **Undertaking by Contractor.** Without limiting Contractor's obligation of confidentiality as further described, Contractor is responsible for establishing and maintaining a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to: (a) ensure the security and confidentiality of the State Data; (b) protect against any anticipated threats or hazards to the security or integrity of the State Data; (c) protect against unauthorized disclosure, access to, or use of the State Data; (d) ensure the proper disposal of State Data; and (e) ensure that all employees, agents, and subcontractors of Contractor, if any, comply with all of the foregoing. In no case will the safeguards of Contractor's data privacy and information security program be less stringent than the safeguards used by the State, and Contractor must at all times comply with all applicable State IT policies and standards, which are available to Contractor upon request. Contractor must comply with the requirements of the Data Security Schedule, found in Schedule E.
- b. **Audit by Contractor.** No less than annually, Contractor must conduct a comprehensive independent third-party audit of its data privacy and information security program and provide a summary of such audit findings to the State as set forth in Schedule E.
- c. **Right of Audit by the State.** Without limiting any other audit rights of the State, the State has the right to review Contractor's data privacy and information security program prior to the commencement of Contract Activities and from time to time during the term of this Contract. During the providing of the Contract Activities, on an ongoing basis from time to time and without notice, the State, at its own expense, is entitled to perform, or to have performed, an on-site audit of Contractor's data privacy and information security program. In lieu of an on-site audit, upon request by the State, Contractor agrees to complete, within 45 calendar days of receipt, an audit questionnaire provided by the State regarding Contractor's data privacy and information security program.
  - d. **Audit Findings.** Contractor must implement any required safeguards as identified by any audit of Contractor's data privacy and information security program.
  - e. **State's Right to Termination for Deficiencies.** The State reserves the right, at its sole election, if the Contractor fails or has failed to meet its obligations under this section, to terminate this Contract or a Statement of Work after a 30-day cure period, without limitation and without liability.

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- 33. **Records Maintenance, Inspection, Examination, and Audit.** Pursuant to MCL 18.1470, the State or its designee may audit Contractor's records to verify compliance with this Contract. Contractor must retain and provide to the State or its designee and the auditor general upon request, all financial and accounting records related to the Contract through the term of the Contract and for 4 years after the latter of termination, expiration, or final payment under this Contract or any extension ("Audit Period"). If an audit, litigation, or other action involving the records is initiated

before the end of the Audit Period, Contractor must retain the records until all issues are resolved.

Within 10 calendar days of providing notice, the State and its authorized representatives or designees have the right to enter and inspect Contractor's premises or any other places where Contract Activities are being performed, and examine, copy, and audit all records related to this Contract. Contractor must cooperate and provide reasonable assistance. If financial errors are revealed, the amount in error must be reflected as a credit or debit on subsequent invoices until the amount is paid or refunded. Any remaining balance at the end of the Contract must be paid or refunded within 45 calendar days.

This Section applies to Contractor, any parent, affiliate, or subsidiary organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.

- 34. Representations and Warranties.** Contractor represents and warrants: (a) Contractor is the owner or licensee of any Contract Activities and Software that it licenses, sells, or develops and Contractor has the rights necessary to convey title, ownership rights, possession, or licensed use as applicable; (b) all Contract Activities and Equipment are delivered free from any security interest, lien, or encumbrance and will continue in that respect; (c) the Equipment, and Software will not infringe the patent, trademark, copyright, trade secret, or other proprietary rights of any third party; (d) Contractor must assign or otherwise transfer to the State or its designee any manufacturer's warranty for the Equipment; (e) the Contract Activities are merchantable and fit for the specific purposes identified in the Contract; (f) the Contract signatory has the authority to enter into this Contract; (g) all information furnished by Contractor in connection with the Contract fairly and accurately represents Contractor's business, properties, finances, and operations as of the dates covered by the information, and Contractor will inform the State of any material adverse changes; (h) all information furnished and representations made in connection with the award of this Contract is true, accurate, and complete, and contains no false statements or omits any fact that would make the information misleading; and that (i) Contractor is neither currently engaged in nor will engage in the boycott of a person based in or doing business with a strategic partner as described in 22 USC 8601 to 8606. A breach of this Section is considered a material breach of this Contract, which entitles the State to terminate this Contract under Section 22, Termination for Cause.
- 35. Conflicts and Ethics.** Contractor will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Contract; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Contract; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for Contractor, any consideration contingent upon the award of the Contract. Contractor must immediately notify the State of any violation or potential violation of these standards. This Section applies to Contractor, any parent, affiliate, or subsidiary

organization of Contractor, and any subcontractor that performs Contract Activities in connection with this Contract.

- 36. Compliance with Laws.** Contractor must comply with all federal, state and local laws, rules and regulations applicable to the Contract Activities provided under the Contract.
- 37. Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, and [Executive Directive 2019-09](#). Contractor and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex (as defined in Executive Directive 2019-09), height, weight, marital status, partisan considerations, any mental or physical disability, or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. Breach of this covenant is a material breach of this Contract.
- 38. Unfair Labor Practice.** Under MCL 423.324, the State may void any Contract with a Contractor or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.
- 39. Governing Law.** This Contract is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Contract are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in the Michigan Court of Claims. Complaints against the State must be initiated in Ingham County, Michigan. Contractor waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. Contractor must appoint an agent in Michigan to receive service of process.
- 40. Non-Exclusivity.** Nothing contained in this Contract is intended nor is to be construed as creating any requirements contract with Contractor, nor does it provide Contractor with a right of first refusal for any future work. This Contract does not restrict the State or its agencies from acquiring similar, equal, or like Contract Activities from other sources.
- 41. Force Majeure.** Neither party will be in breach of this Contract because of any failure arising from any disaster or acts of god that are beyond their control and without their fault or negligence. Each party will use commercially reasonable efforts to resume performance. Contractor will not be relieved of a breach or delay caused by its subcontractors. If immediate performance is necessary to ensure public health and safety, the State may immediately contract with a third party.
- 42. Dispute Resolution.** The parties will endeavor to resolve any Contract dispute in accordance with this provision. The dispute will be referred to the parties' respective Contract Administrators or Program Managers. Such referral must include a description of the issues and all supporting documentation. The parties must submit the dispute to a senior executive if unable to resolve the dispute within a thirty (30) day cure period. The parties will continue performing while a dispute is being

resolved, unless the dispute precludes performance. A dispute involving payment does not preclude performance.

Litigation to resolve the dispute will not be instituted until after the dispute has been elevated to the parties' senior executive and either concludes that resolution is unlikely or fails to respond within 15 business days. The parties are not prohibited from instituting formal proceedings: (a) to avoid the expiration of statute of limitations period; (b) to preserve a superior position with respect to creditors; or (c) where a party makes a determination that a temporary restraining order or other injunctive relief is the only adequate remedy. This Section does not limit the State's right to terminate the Contract.

- 43. Media Releases.** News releases (including promotional literature and commercial advertisements) pertaining to the Contract or project to which it relates must not be made without the prior written approval of the State, and then only in accordance with the explicit written instructions of the State.
- 44. Severability.** If any part of this Contract is held invalid or unenforceable, by any court of competent jurisdiction, that part will be deemed deleted from this Contract and the severed part will be replaced by agreed upon language that achieves the same or similar objectives. The remaining Contract will continue in full force and effect.
- 45. Waiver.** Failure to enforce any provision of this Contract will not constitute a waiver.
- 46. Survival.** Any right, obligation or condition that, by its express terms or nature and context is intended to survive, will survive the termination or expiration of this Contract; such rights, obligations, or conditions include, but are not limited to, those related to transition responsibilities; indemnification; disclaimer of damages and limitations of liability; State Data; non-disclosure of Confidential Information; representations and warranties; insurance and bankruptcy.
- 47. Contract Modification.** This Contract may not be amended except by signed agreement between the parties (a "Contract Change Notice"). Notwithstanding the foregoing, no subsequent Statement of Work or Contract Change Notice executed after the Effective Date will be construed to amend this Contract unless it specifically states its intent to do so and cites the section or sections amended.
- 48. Accessibility Requirements.**
  - a.** With respect to all Software provided by Contractor under this Contract, including associated content and documentation, Contractor must provide a description of conformance with WCAG 2.0 Level AA specifications by providing a completed PAT for each product provided under the Contract. Contractor must comply with the WCAG 2.0 Level AA conformance claims it made to the State, including the level of conformance provided in any PAT. Throughout the Term of the Contract, Contractor must:
    1. maintain compliance with WCAG 2.0 Level AA and meet or exceed the level of conformance provided in its written materials, including the level of conformance provided in each PAT;



2. comply with plans and timelines approved by the State to achieve conformance in the event of any deficiencies;
3. ensure that no Maintenance Release, New Version, update or patch, when properly installed in accordance with this Contract, will have any adverse effect on the conformance of Contractor's Software to WCAG 2.0 Level AA;
4. promptly respond to and resolve any complaint the State receives regarding accessibility of Contractor's Software;
5. upon the State's written request, provide evidence of compliance with this Section by delivering to the State Contractor's most current PAT for each product provided under the Contract; and
6. participate in the State of Michigan Digital Standards Review described below.

**b. State of Michigan Digital Standards Review.** Contractor must assist the State, at no additional cost, with development, completion, and on-going maintenance of an accessibility plan, which requires Contractor, upon request from the State, to submit evidence to the State to validate Contractor's accessibility and compliance with WCAG 2.0 Level AA. Prior to the solution going-live and thereafter on an annual basis, or as otherwise required by the State, re-assessment of accessibility may be required. At no additional cost, Contractor must remediate all issues identified from any assessment of accessibility pursuant to plans and timelines that are approved in writing by the State.

**c. Warranty.** Contractor warrants that all WCAG 2.0 Level AA conformance claims made by Contractor pursuant to this Contract, including all information provided in any PAT Contractor provides to the State, are true and correct. If the State determines such conformance claims provided by the Contractor represent a higher level of conformance than what is actually provided to the State, Contractor will, at its sole cost and expense, promptly remediate its Software to align with Contractor's stated WCAG 2.0 Level AA conformance claims in accordance with plans and timelines that are approved in writing by the State. If Contractor is unable to resolve such issues in a manner acceptable to the State, in addition to all other remedies available to the State, the State may terminate this Contract for cause under **Section 22**.

**d.** Contractor must, without limiting Contractor's obligations of indemnification as further described in this Contract, indemnify, defend, and hold harmless

the State for any and all claims, including reasonable attorneys' fees, costs, and incidental expenses, which may be suffered by, accrued against, charged to, or recoverable from the State arising out of its failure to comply with the foregoing accessibility standards.

- e. Failure to comply with the requirements in this **Section 48** shall constitute a material breach of this Contract.
  - f. Definitions.
  - g. “**PAT**” means a document or product accessibility template, including any Information Technology Industry Council Voluntary Product Accessibility Template or VPAT®, that specifies how information and software products, such as websites, applications, software and associated content, conform to WCAG 2.0 Level AA.
  - h. “**WCAG 2.0 Level AA**” means level AA of the World Wide Web Consortium Web Content Accessibility Guidelines version 2.0.
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# SCHEDULE A - RESERVED

# **SCHEDULE B - RESERVED**

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## **SCHEDULE C – INSURANCE REQUIREMENTS**

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**Contract No. 220000000858**

- 1. General Requirements.** Contractor, at its sole expense, must maintain the insurance coverage as specified herein for the duration of the Term. Minimum limits may be satisfied by any combination of primary liability, umbrella or excess liability, and self-insurance coverage. To the extent damages are covered by any required insurance, Contractor waives all rights against the State for such damages. Failure to maintain required insurance does not limit this waiver.
- 2. Qualification of Insurers.** Except for self-insured coverage, all policies must be written by an insurer with an A.M. Best rating of A- VII or higher unless otherwise approved by DTMB Enterprise Risk Management.
- 3. Primary and Non-Contributory Coverage.** All policies for which the State of Michigan is required to be named as an additional insured must be on a primary and non-contributory basis.
- 4. Claims-Made Coverage.** If any required policies provide claims-made coverage, Contractor must:
  - a. Maintain coverage and provide evidence of coverage for at least 3 years after the later of the expiration or termination of the Contract or the completion of all its duties under the Contract;
  - b. Purchase extended reporting coverage for a minimum of 3 years after completion of work if coverage is cancelled or not renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Contract.
- 5. Proof of Insurance.**
  - a. Insurance certificates showing evidence of coverage as required herein must be submitted to [DTMB-RiskManagement@michigan.gov](mailto:DTMB-RiskManagement@michigan.gov) within 10 days of the contract execution date.
  - b. Renewal insurance certificates must be provided on annual basis or as otherwise commensurate with the effective dates of coverage for any insurance required herein.
  - c. Insurance certificates must be in the form of a standard ACORD Insurance Certificate unless otherwise approved by DTMB Enterprise Risk Management.
  - d. All insurance certificates must clearly identify the Contract Number (e.g., notated under the Description of Operations on an ACORD form).
  - e. In the event any required coverage is cancelled or not renewed, Contractor must provide written notice to DTMB Enterprise Risk Management no later than 5 business days following such cancellation or nonrenewal.

**6. Subcontractors.** Contractor is responsible for ensuring its subcontractors carry and maintain insurance coverage.

**7. Limits of Coverage & Specific Endorsements.**

Required Limits	Additional Requirements
<b>Commercial General Liability Insurance</b>	
<b>Minimum Limits:</b> \$1,000,000 Each Occurrence \$1,000,000 Personal & Advertising Injury \$2,000,000 Products/Completed Operations \$2,000,000 General Aggregate	Contractor must have their policy endorsed to add “the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees, and agents” as additional insureds using endorsement CG 20 10 11 85, or both CG 20 10 12 19 and CG 20 37 12 19.
<b>Automobile Liability Insurance</b>	
If a motor vehicle is used in relation to the Contractor's performance, the Contractor must have vehicle liability insurance on the motor vehicle for bodily injury and property damage as required by law.	
<b>Workers' Compensation Insurance</b>	
<b>Minimum Limits:</b> <b>Coverage according to applicable laws governing work activities.</b>	Waiver of subrogation, except where waiver is prohibited by law.
<b>Employers Liability Insurance</b>	
<b>Minimum Limits:</b> <b>\$500,000 Each Accident</b> <b>\$500,000 Each Employee by Disease</b> <b>\$500,000 Aggregate Disease</b>	
<b>Privacy and Security Liability (Cyber Liability) Insurance</b>	
<b>Minimum Limits:</b> <b>\$1,000,000 Each Occurrence</b> <b>\$1,000,000 Annual Aggregate</b>	Contractor must have their policy cover information security and privacy liability, privacy notification costs, regulatory defense and penalties, and website media content liability.
<b>Professional Liability (Errors and Omissions) Insurance</b>	
<b>Minimum Limits:</b> <b>\$3,000,000 Each Occurrence</b>	

Required Limits	Additional Requirements
\$3,000,000 Annual Aggregate	

**8. Non-Waiver.** This Schedule C is not intended to and is not to be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Contract, including any provisions hereof requiring Contractor to indemnify, defend and hold harmless the State.

## SCHEDULE D – BACK-UP AND RECOVERY

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Contract No. 22000000858

- 1. Definitions.** For purposes of this Schedule, the following terms have the meanings set forth below. All initial capitalized terms in this Schedule that are not defined in this **Schedule** shall have the respective meanings given to them in the Contract Terms and Conditions.

**"Hosted Services"** means the hosting, management and operation of the Operating Environment, Software, other services (including support and subcontracted services), and related resources for remote electronic access and use by the State and its Authorized Users, including any services and facilities related to disaster recovery obligations.

**"RPO" or "Recovery Point Objective"** means the maximum amount of potential data loss in the event of a disaster.

**"RTO" or "Recovery Time Objective"** means the maximum period of time to fully restore the Hosted Services in the case of a disaster.

- 2. Data Storage, Backup, Restoration and Disaster Recovery.** Contractor must maintain or cause to be maintained backup redundancy and disaster avoidance and recovery procedures designed to safeguard State Data and the State's other Confidential Information, Contractor's Processing capability and the availability of the Hosted Services and Software, in each case throughout the Term and at all times in connection with its actual or required performance of the Services hereunder. All backed up State Data shall be located in the continental United States. The force majeure provisions of this Contract do not limit Contractor's obligations under this section.

**2.2** Data Storage. Contractor will provide sufficient storage capacity to meet the needs of the State at no additional cost.

**2.3** Data Backup. Contractor will conduct, or cause to be conducted, daily back-ups of State Data and perform, or cause to be performed, other periodic offline back-ups of State Data on at least a weekly basis and store and retain such back-ups as specified in Contract. Contractor must, within five (5) Business Days of the State's request, provide the State, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Contractor), an extract of State Data in the format specified by the State.

**2.4** **Data Restoration.** If the data restoration is required due to the actions or inactions of the Contractor or its subcontractors, Contractor will promptly notify the State and complete actions required to restore service to normal production operation. If requested, Contractor will restore data from a backup upon written notice from the State. Contractor will restore the data within one (1) Business Day of the State's request. Contractor will provide data restorations at its sole cost and expense.



**2.5 Disaster Recovery.** Throughout the Term and at all times in connection with its actual or required performance of the Services, Contractor will maintain and operate a backup and disaster recovery plan to achieve a Recovery Point Objective (RPO) immediately but no more than 2 hours after point of disaster , and a Recovery Time Objective (RTO) of 24 to 48 hours (the “**DR Plan**”), and implement such DR Plan in the event of any unplanned interruption of the Hosted Services. Contractor’s current DR Plan, revision history, and any reports or summaries relating to past testing of or pursuant to the DR Plan are attached as **Schedule G**. Contractor will actively test, review and update the DR Plan on at least an annual basis using industry best practices as guidance. Contractor, upon request, will provide the State a summary of such updates to the Plan within fifteen (15) days of its adoption by Contractor. All updates to the DR Plan are subject to the requirements of this **Section 2**; and, upon request, provide the State with a summary of the results from any testing of or pursuant to the DR Plan promptly after Contractor’s receipt or preparation. If Contractor fails to reinstate all material Hosted Services and Software within the periods of time set forth in the DR Plan, the State may, in addition to any other remedies available under this Contract, in its sole discretion, immediately terminate this Contract as a non-curable default.

# SCHEDULE E – DATA SECURITY REQUIREMENTS FOR PURCHASES

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**1. Definitions.** For purposes of this Schedule, the following terms have the meanings set forth below. All initial capitalized terms in this Schedule that are not defined in this **Schedule** shall have the respective meanings given to them in the Contract.

“**Contractor Security Officer**” has the meaning set forth in **Section 2** of this Schedule.

“**FedRAMP**” means the Federal Risk and Authorization Management Program, which is a federally approved risk management program that provides a standardized approach for assessing and monitoring the security of cloud products and services.

“**FISMA**” means The Federal Information Security Modernization Act of 2014 (Pub.L. No. 113-283 (Dec. 18, 2014.)).

“**Hosting Provider**” means any subcontractor that is providing any or all of the Hosted Services under this Contract.

“**NIST**” means the National Institute of Standards and Technology.

“**PCI**” means the Payment Card Industry.

“**PSP**” or “**PSPs**” means the State’s IT Policies, Standards and Procedures.

“**SSAE**” means Statement on Standards for Attestation Engagements.

“**Security Accreditation Process**” has the meaning set forth in **Section 6** of this Schedule.

**2. Security Officer.** Contractor will appoint a Contractor employee to respond to the State’s inquiries regarding the security of the Hosted Services who has sufficient knowledge of the security of the Hosted Services and the authority to act on behalf of Contractor in matters pertaining thereto (“**Contractor Security Officer**”).

**3. Contractor Responsibilities.** Contractor is responsible for establishing and maintaining a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to:

- (a) ensure the security and confidentiality of the State Data;
- (b) protect against any anticipated threats or hazards to the security or integrity of the State Data;
- (c) protect against unauthorized disclosure, access to, or use of the State Data;

- (d) ensure the proper disposal of any State Data in Contractor's or its subcontractor's possession; and
- (e) ensure that all Contractor employees and subcontractors involved in the performance of Contract Activities hereunder comply with the foregoing.

The State has established Information Technology (IT) PSPs to protect IT resources under the authority outlined in the overarching State 1305.00 Enterprise IT Policy. In no case will the safeguards of Contractor's data privacy and information security program be less stringent than the safeguards used by the State, and Contractor must at all times comply with all applicable public and non-public State IT policies and standards, of which the publicly available ones are at [https://www.michigan.gov/dtmb/0,5552,7-358-82547\\_56579\\_56755---,00.html](https://www.michigan.gov/dtmb/0,5552,7-358-82547_56579_56755---,00.html).

This responsibility also extends to all service providers and subcontractors with access to State Data or an ability to impact the contracted solution. Contractor responsibilities are determined from the PSPs based on the services being provided to the State, the type of IT solution, and the applicable laws and regulations.

**4. Acceptable Use Policy.** To the extent that Contractor has access to the State's IT environment, Contractor must comply with the State's Acceptable Use Policy, see [1340.00.130.02 Acceptable Use of Information Technology \(michigan.gov\)](#). All Contractor Personnel will be required, in writing, to agree to the State's Acceptable Use Policy before accessing State systems. The State reserves the right to terminate Contractor's and/or subcontractor(s) or any Contractor Personnel's access to State systems if the State determines a violation has occurred.

**5. Protection of State's Information.** Throughout the Term and at all times in connection with its actual or required performance of the Contract Activities, Contractor will:

- 5.1** If Hosted Services are provided by a Hosting Provider, ensure each Hosting Provider maintains FedRAMP authorization for all Hosted Services environments throughout the Term, and in the event a Hosting Provider is unable to maintain FedRAMP authorization, the State, at its sole discretion, may either a) require the Contractor to move the Software and State Data to an alternative Hosting Provider selected and approved by the State at Contractor's sole cost and expense without any increase in Fees, or b) immediately terminate this Contract for cause pursuant to **Section 25** of the Contract;
- 5.2** for Hosted Services provided by the Contractor, maintain either a FedRAMP authorization or an annual SSAE 18 SOC 2 Type II audit based on State required NIST Special Publication 800-53 MOD Controls using identified controls and minimum values as established in applicable State PSPs. The initial SOC2 Type

It will be provided when it is available, which is expected to be on or before November 15, 2023.

- 5.3** ensure that the Software and State Data is securely stored, hosted, supported, administered, accessed, developed, and backed up in the continental United States, and the data center(s) in which the data resides minimally meet Uptime Institute Tier 3 standards ([www.uptimeinstitute.com](http://www.uptimeinstitute.com)), or its equivalent; For the avoidance of doubt, Contractor will not be developing and Software or State Data under the Contract.
- 5.4** maintain and enforce an information security program including safety and physical and technical security policies and procedures with respect to its Processing of the State Data that complies with the requirements of the State's data security policies as set forth in this Contract, and must, at a minimum, remain compliant with FISMA and NIST Special Publication 800-53 MOD Controls using identified controls and minimum values as established in applicable State PSPs;
- 5.5** provide technical and organizational safeguards against accidental, unlawful or unauthorized access to or use, destruction, loss, alteration, disclosure, encryption, transfer, commingling or processing of such information that ensure a level of security appropriate to the risks presented by the processing of State Data and the nature of such State Data, consistent with best industry practice and applicable standards (including, but not limited to, compliance with FISMA, NIST, CMS, IRS, FBI, SSA, HIPAA, FERPA and PCI requirements as applicable);
- 5.6** take all reasonable measures to:
  - (a)** secure and defend all locations, equipment, systems and other materials and facilities employed in connection with the Contract Activities against "malicious actors" and others who may seek, without authorization, to destroy, disrupt, damage, encrypt, modify, copy, access or otherwise use Hosted Services or the information found therein; and
  - (b)** prevent (i) the State and its Authorized Users from having access to the data of other customers or such other customer's users of the Contract Activities; (ii) State Data from being commingled with or contaminated by the data of other customers or their users of the Contract Activities; and (iii) unauthorized access to any of the State Data;
- 5.7** ensure that State Data is encrypted in transit and at rest using FIPS validated AES encryption modules and a key size of 128 bits or higher;

**5.8** ensure the Hosted Services support Identity Federation/Single Sign-on (SSO) capabilities using Security Assertion Markup Language (SAML), Open Authentication (OAuth) or comparable State approved mechanisms;

**5.9** ensure the Hosted Services implements NIST compliant multi-factor authentication for privileged/administrative and other identified access.

**6. Security Accreditation Process.** Throughout the Term, Contractor will assist the State, at no additional cost, with its **Security Accreditation Process**, which includes the, completion and on-going maintenance of a system security plan (SSP) using the State's automated governance, risk and compliance (GRC) platform, which requires Contractor to submit evidence, upon request from the State, in order to validate Contractor's security controls within a commercially reasonable period of time, not to exceed thirty (30) days, unless otherwise agreed upon by the parties.. On an annual basis, or for significant changes, re-assessment of the system's controls will be required to receive and maintain authority to operate (ATO). All identified risks from the SSP will be remediated through a Plan of Action and Milestones (POAM) process with remediation time frames and required evidence based on the risk level of the identified risk. For all findings associated with the Contractor's solution, at no additional cost, Contractor will be required to create or assist with the creation of State approved POAMs, perform related remediation activities, and provide evidence of compliance. The State will make any decisions on acceptable risk, Contractor may request risk acceptance, supported by compensating controls, however only the State may formally accept risk. Failure to comply with this section will be deemed a material breach of the Contract.

**7. Unauthorized Access.** Contractor may not access, and must not permit any access to, State systems, in whole or in part, whether through the Hosted Services or otherwise, without the State's express prior written authorization. Such authorization may be revoked by the State in writing at any time in its sole discretion. Any access to State systems must be solely in accordance with the Contract and this Schedule, and in no case exceed the scope of the State's authorization pursuant to this Section. All State-authorized connectivity or attempted connectivity to State systems shall be only through the State's security gateways and firewalls and in compliance with the State's security policies set forth in the Contract as the same may be supplemented or amended by the State and provided to Contractor from time to time.

## **8. Security Audits.**

**8.1** During the Term, Contractor will maintain complete and accurate records of its data protection practices, IT security controls, and the security logs relating to State Data, including but not limited to any backup, disaster recovery or other

policies, practices or procedures relating to the State Data and any other information relevant to its compliance with this Contract.

- 8.2** The State has the right to review with Contractor, Contractor's data privacy and information security program prior to the commencement of Contract Activities and from time to time during the term of this Contract by requesting information be provided in the form of an annual Questionnaire. Contractor shall also provide its Enterprise IT Policy Framework document as well as its Verizon Cybersecurity Certification Letter.
- 8.3** During the Term, Contractor will provide a copy of Contractor's r SOC 2 Type 2 report(s) to the State annually. The System Security Plan and SSAE audit reports will be recognized as Contractor's Confidential Information.
- 8.4** The State reserves the right, at its sole election, to immediately terminate this Contract or a Statement of Work without limitation and without liability if the State determines that Contractor fails or has failed to meet its obligations under this **Section 8** and has not been able to cure it deficiencies within 30 days.

**9. Application Scanning.** During the Term, Contractor must, at its sole cost and expense, scan all Contractor provided applications, and must analyze, remediate and validate all vulnerabilities identified by the scans as required by the State Secure Web Application and other applicable PSPs.

Contractor's application scanning and remediation must include each of the following types of scans and activities:

- 9.1** Dynamic Application Security Testing (DAST) – Scanning interactive application for vulnerabilities, analysis, remediation, and validation (may include Interactive Application Security Testing (IAST)).
- (a) Contractor must either a) grant the State the right to dynamically scan a deployed version of the Software; or b) in lieu of the State performing the scan, Contractor must dynamically scan a deployed version of the Software using a State approved application scanning tool, and provide the State with a vulnerabilities assessment after Contractor has completed such scan. These scans and assessments i) must be completed and provided to the State quarterly (dates to be provided by the State) and for each major release; and ii) scans must be completed in a non-production environment with verifiable matching source code and supporting infrastructure configurations or the actual production environment.
- 9.2** Static Application Security Testing (SAST) - Scanning source code for vulnerabilities, analysis, remediation, and validation.

- (a) For Contractor provided applications, Contractor, at its sole expense, must provide resources to complete static application source code scanning, including the analysis, remediation and validation of vulnerabilities identified by application source code scans. These scans must be completed for all source code initially, for all updated source code, and for all source code for each major release and Contractor must provide the State with a vulnerability assessment after Contractor has completed the required scans.

**9.3 Software Composition Analysis (SCA) – Third Party and/or Open Source Scanning for vulnerabilities, analysis, remediation, and validation.**

- (a) For Software that includes third party and open source software, all included third party and open source software must be documented and the source supplier must be monitored by the Contractor for notification of identified vulnerabilities and remediation. SCA scans may be included as part of SAST and DAST scanning or employ the use of an SCA tool to meet the scanning requirements. These scans must be completed for all third party and open source software initially, for all updated third party and open source software, and for all third party and open source software in each major release and Contractor must provide the State with a vulnerability assessment after Contractor has completed the required scans if not provided as part of SAST and/or DAST reporting.

**9.4 In addition, application scanning and remediation may include the following types of scans and activities if required by regulatory or industry requirements, data classification or otherwise identified by the State.**

- (a) If provided as part of the solution, all native mobile application software must meet these scanning requirements including any interaction with an application programming interface (API).
- (b) Penetration Testing – Simulated attack on the application and infrastructure to identify security weaknesses.

**10. Infrastructure Scanning.**

- 10.1** For Hosted Services, Contractor must ensure the infrastructure and applications are scanned using an approved scanning tool (Qualys, Tenable, or other PCI Approved Vulnerability Scanning Tool) at least monthly and provide the scan's assessments to the State in a format that is specified by the State and used to track the remediation. Contractor will ensure the remediation of issues identified in the scan according to the remediation time requirements documented in the State's PSPs.

**11. Nonexclusive Remedy for Security Breach.** Any failure of the Contract Activities to meet the requirements of this Schedule with respect to the security of any State Data or other Confidential Information of the State, including any related backup, disaster recovery or other policies, practices or procedures, is a material breach of the Contract for which the State, at its option, may terminate the Contract upon written notice to Contractor, and Contractor must promptly reimburse to the State any Fees prepaid by the State prorated to the date of such termination.



# SCHEDULE F – FEDERAL PROVISIONS

## ADDENDUM

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This addendum applies to purchases that will be paid for in whole or in part with funds obtained from the federal government. The provisions below are required, and the language is not negotiable. If any provision below conflicts with the State's terms and conditions, including any attachments, schedules, or exhibits to the State's Contract, the provisions below take priority to the extent a provision is required by federal law; otherwise, the order of precedence set forth in the Contract applies. Hyperlinks are provided for convenience only; broken hyperlinks will not relieve Contractor from compliance with the law.

### 1. Equal Employment Opportunity

If this Contract is a “**federally assisted construction contract**” as defined in [41 CFR Part 60-1.3](#), and except as otherwise may be provided under [41 CFR Part 60](#), then during performance of this Contract, the Contractor agrees as follows:

- 1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- 2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- 3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

- 4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 5) The Contractor will comply with all provisions of [Executive Order 11246](#) of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 6) The Contractor will furnish all information and reports required by [Executive Order 11246](#) of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in [Executive Order 11246](#) of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in [Executive Order 11246](#) of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of [Executive Order 11246](#) of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:  
  
Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.  
  
The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

### **Davis-Bacon Act (Prevailing Wage)**

If this Contract is a **prime construction contract** in excess of \$2,000, the Contractor (and its Subcontractors) must comply with the Davis-Bacon Act ([40 USC 3141-3148](#)) as supplemented by Department of Labor regulations ([29 CFR Part 5](#), "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"), and during performance of this Contract the Contractor agrees as follows:

- 1) All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
- 2) Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- 3) Additionally, contractors are required to pay wages not less than once a week.

### **Copeland "Anti-Kickback" Act**

If this Contract is a contract for construction or repair work in excess of \$2,000 where the Davis-Bacon Act applies, the Contractor must comply with the Copeland "Anti-Kickback" Act ([40 USC 3145](#)), as supplemented by Department of Labor regulations ([29 CFR Part 3](#), "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"), which

prohibits the Contractor and subrecipients from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled, and during performance of this Contract the Contractor agrees as follows:

- 1) **Contractor.** The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- 2) **Subcontracts.** The Contractor or Subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA or the applicable federal awarding agency may by appropriate instructions require, and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- 3) **Breach.** A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a Contractor and Subcontractor as provided in 29 C.F.R. § 5.12.

#### **Contract Work Hours and Safety Standards Act**

If the Contract is **in excess of \$100,000** and **involves the employment of mechanics or laborers**, the Contractor must comply with [40 USC 3702](#) and [3704](#), as supplemented by Department of Labor regulations ([29 CFR Part 5](#)), as applicable, and during performance of this Contract the Contractor agrees as follows:

- 1) **Overtime requirements.** No Contractor or Subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.
- 2) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- 3) **Withholding for unpaid wages and liquidated damages.** The State shall upon its own action or upon written request of an authorized representative of the

Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or Subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

- 4) Subcontracts.** The Contractor or Subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

#### **Rights to Inventions Made Under a Contract or Agreement**

If the Contract is funded by a federal “funding agreement” as defined under [37 CFR §401.2 \(a\)](#) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with [37 CFR Part 401](#), “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

#### **Clean Air Act and the Federal Water Pollution Control Act**

If this Contract is **in excess of \$150,000**, the Contractor must comply with all applicable standards, orders, and regulations issued under the Clean Air Act ([42 USC 7401-7671q](#)) and the Federal Water Pollution Control Act ([33 USC 1251-1387](#)), and during performance of this Contract the Contractor agrees as follows:

##### **Clean Air Act**

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The Contractor agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency or the applicable federal awarding agency, and the appropriate Environmental Protection Agency Regional Office.
3. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA or the applicable federal awarding agency.

##### **Federal Water Pollution Control Act**

1. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The Contractor agrees to report each violation to the State and understands and agrees that the State will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency or the applicable federal awarding agency, and the appropriate Environmental Protection Agency Regional Office.
3. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA or the applicable federal awarding agency.

### **Debarment and Suspension**

A “contract award” (see [2 CFR 180.220](#)) must not be made to parties listed on the government-wide exclusions in the [System for Award Management](#) (SAM), in accordance with the OMB guidelines at [2 CFR 180](#) that implement [Executive Orders 12549 \(51 FR 6370; February 21, 1986\)](#) and [12689 \(54 FR 34131; August 18, 1989\)](#), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than [Executive Order 12549](#).

- 1) This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Contractor is required to verify that none of the Contractor’s principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- 2) The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- 3) This certification is a material representation of fact relied upon by the State. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- 4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

### **Byrd Anti-Lobbying Amendment**

Contractors who apply or bid for an award of **\$100,000 or more** shall file the required certification in *Exhibit 1 – Byrd Anti-Lobbying Certification* below. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or

employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

**Procurement of Recovered Materials**

Under [2 CFR 200.322](#), Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

- 1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
  - a. Competitively within a timeframe providing for compliance with the contract performance schedule;
  - b. Meeting contract performance requirements; or
  - c. At a reasonable price.
- 2) Information about this requirement, along with the list of EPA- designated items, is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- 3) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

**Additional FEMA Contract Provisions.**

The following provisions apply to purchases that will be paid for in whole or in part with funds obtained from the Federal Emergency Management Agency (FEMA):

- 1) **Access to Records.** The following access to records requirements apply to this contract:
  - a. The Contractor agrees to provide the State, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
  - b. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
  - c. The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

In compliance with the Disaster Recovery Act of 2018, the State and the Contractor acknowledge and agree that no language in this contract is intended to prohibit

audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

**2) Changes.**

See the provisions regarding modifications or change notice in the Contract Terms.

**3) DHS Seal Logo and Flags.**

The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

**4) Compliance with Federal Law, Regulations, and Executive Orders.**

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The Contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

**5) No Obligation by Federal Government.**

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the State, Contractor, or any other party pertaining to any matter resulting from the Contract.”

**6) Program Fraud and False or Fraudulent Statements or Related Acts**

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor’s actions pertaining to this contract.



# SCHEDULE F - EXHIBIT 1 - BYRD ANTI-LOBBYING CERTIFICATION

Contractor must complete this certification if the purchase will be paid for in whole or in part with funds obtained from the federal government and the purchase is greater than \$100,000.

## APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

### Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, Pitney Bowes Inc., certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

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Signature of Contractor's Authorized Official

---

Name and Title of Contractor's Authorized Official

---

Date

# **SCHEDULE G – DISASTER RECOVERY PLAN**

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(Contractor's Disaster Recovery Plan is to be included as an attachment)



## Pitney Bowes Inc. Business Continuity Policy Statement

Pitney Bowes has established a global comprehensive, holistic Business Continuity (BC) Program, which includes but not limited to Preparedness, Business Continuity, Incident and Crisis Management. Our framework has been developed by using good practice guidelines, such as ISO, British Standards and NFPA 1600 as well as following recommendations of the WHO (World Health Organization) and the CDC (Centers for Disease Control). Additionally, this framework embraces local through to any global requirements where Pitney Bowes has direct operations.

At Pitney Bowes, our planning approach is 'All Hazards'. Our focus is on the well-being of our employees, our ability to continue the delivery of products and services to our customers and assisting them as needed. Our approach includes communicating to stakeholders, protecting the brand and managing risk. An integral part of our plan to support our customers and stakeholders factors in high absenteeism, as experienced during a pandemic, severe weather and national strikes.

The BC program is staffed with a combination of dedicated professionals and functional owners in all of our businesses. Under this program, we execute a multi-tiered strategy of Response and Business Continuity plans based on location and business unit.

At Pitney Bowes we understand no plan can eliminate all risk of service disruption. We constantly upgrade and improve our ability to respond, recover, and continue our operations. We continually validate and maintain our plans which are subject to modification without notification.

As events warrant, our Response and Business Continuity plans will be activated.

For information on our response to current events, please visit our website at <http://www.pitneybowes.com/us>.



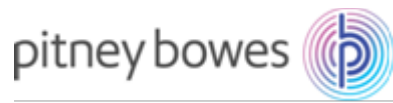
# BCP Table of Contents

Paul Macari



# Business Continuity Plan Contents

BCP Contents		
Revision Control	BCP Checklists	Business Processes Priorities
Business Continuity Policy Statement	Reference Documentation	Risk Assessment
How to use this plan	Alternate Operating Procedures	Facility Floor Plan
Crisis Notification Escalation	BCP Invocation Timeline	Alternate Site Strategies
Business Restoration Plan	Pre-Event Planning	Pandemic Business Continuity
Business Continuity Maintenance Plan	Initial Response Plan	Suppliers & Vendors Contact List
Emergency Contacts	Manual Process List	Business Function Dependency Contact List
BCP Team Structure	External Agreements & SLA's	Local Response Plan
BCP Team Role & Responsibilities	Business Systems & Applications	Emergency Response Plan
BCP Employee Call Tree	Vital Records	Business Impact Analysis
Employee Information	Important Websites	Business Continuity Exercise Scenario & Results
Local Emergency Service Directory	Business Impact Analysis	



3001 Summer Street  
Stamford, CT 06926

**Policy/Governance and Oversight:**

We have a structured, consistent and continuous risk management process in place across our organization. This Enterprise Risk Management system identifies and prioritizes potential risks to the business including financial, environmental and societal risks. These risks are then assessed in terms of probability, severity and the status of mitigation plans. The risks identified are reviewed by a senior management Risk Steering Committee and the Board of Directors. The Board's Audit Committee also reviews the risk management process independently.

Our Business Continuity (BC) program is aligned with our risk management process. The program's primary objective is to support ongoing contingency planning to evaluate the impact of events that may adversely affect clients, assets or employees. Pitney Bowes has established processes to support the continuity of our businesses during times of crisis.

**Training:**

With a core staff and engagement by our business units, we are able to respond appropriately as events arise. We also train our employees, run simulation exercises and evaluate our program each year for potential improvements.

Pitney Bowes has established a global comprehensive Business Continuity Program, which includes but is not limited to Preparedness, Business Continuity, Incident and Crisis Management. Our framework has been developed by using good practice guidelines, such as ISO, British Standards and NFPA as well as following recommendations of the WHO (World Health Organization) and the CDC (Centers for Disease Control).

**Plan Maintenance/updates and BIA's;**

Our BC Plans are reviewed and maintained on a regular basis (quarterly/annually). All plans follow a strict compliance schedule. The progress and maintenance of these plans are reported to senior management on a quarterly basis.

Key/Critical Business Processes and functions are captured and analyzed via the Business Impact Analysis (BIA), which are part of the annual Business Continuity compliance process.

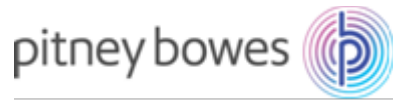
**Disaster Recovery/Alternate Sight:**

We have primary and secondary DR data centers in three geographies:

- North America: King's Mountain, NC and Tempe, AZ
- Europe: London and Meerbusch, DE
- AsiaPac: Sydney and Noida, IN

**Pandemic Response:**

Our BC plans are designed to address various threats and vulnerabilities, including a response for a pandemic and high absenteeism. Strategies for responding to a pandemic are embedded within our BC and emergency response methodology. We have plans in place to protect our personnel and limit the spread of disease within our facilities. We also monitor the Center for Disease Control (CDC) and the World Health Organization (WHO) for pandemic phase alerts and evoke components of our response plan in accordance with the phase alerts.



3001 Summer Street  
Stamford, CT 06926

**Testing and Validation:**

We maintain a strict adherence to our plan maintenance and testing schedules. The results are regularly reviewed by senior management. As part of our continuous improvement strategy, we have a closed loop corrective action process in place to ensure lessons learned from these exercises, are documented and assessed for implementation. Our testing is performed annually. The results were within management guidelines and client/customer expectations. Detail results of our test are company confidential.

**Employee Health and Safety:**

Pitney Bowes values the safety of our employees, and we are committed to an injury-free workplace. We work continuously to identify, control and eliminate hazards. Our organization has adopted an EHS Management System that establishes the basic principles for a sustainable program. That enables the monitoring line-of-business performance. We engage our employees in helping us provide for a safe and healthy workplace by completing required training, serving on site-level safety and ergonomic committees and participating in incident investigations as needed.

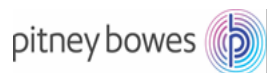
**Crisis Management and Cyber Management:**

In addition to our Crisis Management Team, we also have a Cyber Incident Team which provides governance and oversight for both prevention strategies and incident response.

**Third Party Risk Management:**

We have contingency plans in place with our critical suppliers to ensure product/service flow in the event of an incident. Our critical suppliers do have business continuity plans. We review these plans as part of our regularly scheduled business and operational reviews. We hold periodic business reviews with major suppliers where they discuss the state of their business and their strategic direction.





## SCHEDULE H.1 TO PARTICIPATING ADDENDUM

If you ordered any of the following software products, your use of the product(s) will be governed by the terms below: Business Manager, ConnectRight® Mailer, File-Based Processing Software, PC Transfer Utility, SendSuite® Desktop, SendSuite® Tracking, Relay® Integrity Pro, and SendSuite® Xpress.

### **ON-PREMISE SOFTWARE LICENSE AGREEMENT**

#### **For NASPO ValuePoint State of Michigan**

(Last modified August, 2021)

Thank you for choosing our on-premise software product(s) (the “Licensed Products”) listed in your Order.

We’ll start with the basics, including a few definitions that should help you understand this agreement. This is an agreement between the entity identified on the Order (“you” or “your”) and Pitney Bowes Inc. (“we”, “us” or “our”). During the Term (defined in Section 1(a)), we will provide the Licensed Products listed in the Order, and which may be further defined in a Statement of Work referencing these terms (“SOW”).

In the event of a conflict between the License, these terms and the SOW(s), these terms will control. This Agreement affects your rights and contains warranty disclaimer and binding arbitration provisions.

#### **1. License**

a) The Licensed Products and all related materials are proprietary to us and our licensors and suppliers. As long as you comply with the terms of this License, we will grant a limited, non-exclusive, non-transferable, license to access and use the Licensed Products during the Term. The "Term" is: (i) perpetual in the case of a Purchase Agreement Order; or (ii) the term of the lease subject to a Lease Agreement Order. We are not selling the Licensed Products to you and, other than the license we are granting, we reserve all rights to the Licensed Products not expressly granted in this License.

b) You are authorized to install and use the Licensed Products on a Computer, or hardware provided by us, in each case with User access as defined in the Documentation (defined in Section 2(c)) or applicable SOW. “Computer” means the server or server configuration or load balanced application servers, terminal or computer identified in an Order or SOW on which the Licensed Products are authorized to be installed and used. “User” means an individual authorized by you to use the Licensed Products under an Order or SOW regardless of whether the individual is actively using the Licensed Products at any given time.

#### **2. Use of Licensed Products**

a) You agree that you will use the Licensed Products and any data generated from the Licensed Products only for business or governmental purposes and not for personal, family or household purposes. The Licensed Products include any enhancements, updates, upgrades, modifications, new releases and corrective programming to the Licensed Products or Documentation that are provided as part of software maintenance (“Enhancements”). The Licensed Products will be installed and used only at the location described in an Order or any other location as to which we have consented to the transfer of the Licensed Products in accordance with Section 2(b) (“Installation Site”) and only on the

hardware provided by us or the Computer described in an Order or SOW. Remote access to the Licensed Products directly or indirectly through a server, the Internet, independent software application or otherwise to your computer from locations other than your Installation Site, and use of the Licensed Products to perform services for any third parties, including your affiliates, are prohibited. Additional terms of authorized use will be described in your Order or SOW and may include, among other things, limitations on: (i) the number of Users; and (ii) the number of transactions processed or individual data records accessed using the Licensed Products. Licensed Products licensed for desktop use by a specific number of Users may be installed on the number of devices equal to the number of licenses purchased, or may be installed on multiple devices so long as the number of Users do not exceed the number of User licenses purchased. Additional product-specific license terms applicable to certain of the Licensed Products (“Product Terms”) can be found in Exhibit A and are incorporated into this License. If there is a conflict between the Product Terms and any other provision of this License, the Product Terms will control.

b) If the Licensed Product is for a designated Computer, you do not need our consent to transfer the Licensed Product from one computer system to another at the Installation Site. However, you need our consent if you wish to transfer the Licensed Product to another location. After obtaining our consent to a transfer to another location, you will certify to us in writing that all copies of the Licensed Product at the prior location were either transferred to the new location or destroyed.

c) You may make a reasonable number of copies of the Licensed Products and Documentation solely for back-up or disaster recovery purposes. “Documentation” means the current technical and user documentation for the Licensed Products. The Documentation may be modified from time-to-time to incorporate Enhancements. You must reproduce all copyright, trademark, trade secret and other proprietary notices in your copies. The back-up or disaster recovery copies can only be used to perform disaster recovery testing or if the Computer where the Licensed Products are installed becomes inoperative, those copies cannot be used for recovery production or testing concurrently with the production or testing copies of the Licensed Products. If the Computer becomes inoperative, the Licensed Products can only be used on a back-up computer utilizing the same operating system.

d) You may permit a third party contractor to access and use the Licensed Products solely for your benefit, so long as: (i) the contractor agrees to comply fully with all terms and conditions of this License or substantially similar terms; (ii) you remain responsible for the contractor's compliance with this License and any breach; and (iii) any User limitation includes User licenses allocated to contractors. All rights granted to any contractor under this License terminate immediately upon termination or expiry of this License. Upon termination of such rights, the Purchasing Entity must immediately terminate such contractor's use of and access to the Licensed Product, un-install and destroy all copies of the Licensed Products and Documentation, and must certify in writing its compliance with this Section upon our request.

### **3. General Use Restrictions**

a) For the Licensed Products, you will not: (i) make derivative works; (ii) sublicense, sell, rent, lease, lend, time-share, host; or, except as required or provided by law, disclose, or transfer the Licensed Products, Documentation or confidential or proprietary information to or for any other parties; (iii) use the Licensed Products to modify or reproduce third party material unless you have the legal right to do so; (iv) attempt to unlock or bypass any initialization system, encryption methods or copy protection device in the Licensed Products; (v) knowingly or intentionally alter, remove or obscure any patent, copyright or trademark notice in the Licensed Products or Documentation; (vi) reverse engineer, decompile or disassemble or remove functions of the Licensed Products or any portion of them; (vii) make copies of the Licensed Products or Documentation, except as authorized in Section

2(c); (viii) modify, alter or change the Licensed Products; (ix) use components of a Licensed Product independent of the Licensed Products they comprise; or (x) extract any data from the Licensed Product and use such data for any purpose other than for your use of the Licensed Product.

b) You will not use the Licensed Products in the operation of a time-sharing or service bureau arrangement or as an application service provider. You will not allow access to the Licensed Products through any other means than those indicated in the Order or in any SOW or described or contemplated in the Documentation.

#### **4. Additional Fees**

a) Reserved.

b) Reserved.

c) If the number of locations or the number of Users or Computer systems exceeds what is permitted by and/or paid for under an Order, we may charge you for the appropriate license and software maintenance fees based on the excess and at the applicable rates then in effect.

#### **5. Indemnity**

a) We will have no obligation to indemnify you if the infringement or misappropriation results from your: (i) modification of the Licensed Products without our knowledge or consent; (ii) combination, operation or use of the Licensed Products with software products which are not ours, unless we have provided the software products or the Documentation refers to a combination with such software products ; (iii) use of the Licensed Products in breach of this Agreement; or (iv) use of other than the most current release of the Licensed Products if a claim of infringement or misappropriation could have been avoided by your use of the current release of the Licensed Products, provided we delivered the superseding version to you and notified you of the need to use it, including for reasons pertaining to infringement.

#### **6. Software Maintenance; Training**

a) We will provide software maintenance in accordance with the terms you will find at <https://www.pitneybowes.com/us/license-terms-of-use/shipping-and-mailing-maintenance-services-terms.html>.

b) We will provide product training as specified in an Order or SOW.

#### **7. Warranty; Disclaimers**

a) If we supply carrier rate information ("Rate Information") to you in connection with this License, the media upon which the Rate Information is supplied are warranted to be free from defects for a period of 90 days after installation. Your sole remedy for breach of this warranty will be replacement of the Rate Information media. We do not warrant that the Rate Information itself is accurate. We will have no liability for any damages you may incur as a result of your use of the Rate Information.

b) There is no warranty if the Licensed Products failed to perform because of your use of the Licensed Products in a manner not authorized by this License or for a purpose other than the

ordinary purpose for which it is designed. The warranty does not apply if the Licensed Products have been altered, modified, converted or repaired by anyone other than us.

## **8. Term; Termination**

- a) We have the right to terminate this Agreement if you violate sections 1, 2, or 3 above, and you fail to cure such breach within 30 days after receipt of written notice of the breach.
- b) We can terminate a Licensed Product immediately by giving notice to you, with a 30 day opportunity to cure, if you breach Sections 3 General Use Restrictions, 14(e) export terms, or the Carrier Agreements, with respect to such Licensed Product.
- c) Upon termination or expiry of this License, you will stop using the Licensed Products and you will irretrievably delete and/or remove them from your Computer systems and, if not deleted and/or removed, return the Licensed Products and Documentation together with all copies to us; and you will certify compliance with this Section in writing.
- d) You acknowledge that any breach of your obligations under this Agreement with respect to our or a third party's proprietary rights or confidential information may cause us and/or the third party irreparable injury for which there may be no adequate remedies at law, and therefore we will be entitled to seek injunctive relief, in addition to all other remedies provided in this Agreement or available at law.
- e) Any provision of this Agreement which expressly or by implication is intended to come into or continue in force on or after termination of this Agreement, including Sections 1(a) proprietary rights, 3, 5, 7, 9(d) and(e), and 11, shall remain in full force and effect.

## **9. Third Party Content; Regulated Functionality**

Various third-party software and other documentation ("Third Party Content") may have been incorporated into the Licensed Products by us under permission from our licensors and suppliers. The United States Postal Service ("USPS") or other governmental bodies may regulate certain functionality of the Licensed Products. Special terms and conditions applicable to the Third-Party Content are included in separate carrier agreements available to you as click through agreements ("Carrier Agreements"), and you agree to comply with such terms and conditions. Any terms and conditions in the Carrier Agreements that are inconsistent with, or in addition to this Agreement will control with respect to the Third-Party Content or its functionality. If, from time to time, the Carrier Agreements are amended, we will provide you the revised portions to reflect, (a) changes in our arrangements with our licensors or suppliers for Third-Party Content, or (b) regulatory requirements. If the Licensed Products perform an address validation function, license terms applicable to use of the USPS data related to such function are found at <http://www.pb.com/license-terms-of-use/usps-terms.shtml> and are incorporated in this Agreement by reference.

If our license to any Third Party Content terminates, you agree: (i) that this Agreement and all other agreements with us or any of our affiliates and you (e.g., equipment) will remain in full force and effect in accordance with their terms; (ii) upon our written request, to discontinue use of, and/or return the terminated Third Party Content; and (iii) in the event of such request for discontinuance, we will have no further obligation to you with respect to the Third Party Content; provided that the termination of such Third Party Content does not materially degrade your use of the Licensed Products.

You will be solely responsible for: (i) entering into your own arrangements with third parties, including carriers, for software functionality not provided by us as part of the Licensed Products; and (ii) payment of

all fees for third-party software not expressly included in the License fee paid under the Order, including fees associated with your operating environment.

#### **10. Use of Information; Data; Publicity**

- a) You grant to us (and our affiliates and vendors, if applicable) the right to use the data you provide to us as necessary to provide the services through the Licensed Products and as provided in Exhibit 1 and our Privacy Statement at <https://www.pitneybowes.com/us/legal/privacy-statement.html>. In the event of a conflict between our Privacy Statement and Sections 30, 31 and 32 of Exhibit 1, Exhibit 1 shall govern.
- b) You assign to us all right, title, and interest (including all rights in copyright and resulting patents) in any, feedback, or suggestions, provided to us related to your use of the Licensed Products.
- c) We will not be responsible for ensuring that you have the appropriate rights to (including the right to provide to us) all data, files, materials or other information that you provide to us in connection with our provision of the Licensed Products.

#### **11. General**

- a) We may, to the extent available, deliver the Licensed Products, Enhancements or key codes electronically via the Internet or permit you to download the Licensed Products, Enhancements or key codes from our website.
- b) You agree: (i) to comply with all U.S. export control laws and regulations; (ii) not to export, re-export, or provide the Licensed Products to any destination or to any person if prohibited by any U.S. law or regulation; and (iii) to immediately notify us in writing if you or one of your affiliates is or becomes listed in any Denied Parties List or if you or any of your affiliates export privileges are denied, suspended or revoked by any U.S. Government entity.

#### **12. Verification**

With 10 days' written notice to you, we or our designated third party may verify your compliance with this Agreement at all locations and for all environments in which you use the Licensed Products. The verification will take place no more than one time per twelve-month period during normal business hours in a manner that minimizes disruption to your work environment. We may use an independent third party under obligations of confidentiality to provide assistance. We will notify you in writing if any such verification indicates that you have used the Licensed Products in excess of the use authorized by this Agreement. You agree to enter into an additional Order and pay all associated fees directly to us for the charges that we specify and that you do not dispute, including: (i) any excess use; and (ii) maintenance and/or subscription fees for the excess use for the duration of such excess at the rates specified in the Agreement.

#### **13. U.S. Government Restricted Rights**

If you are an agency of the United States Government, use of the Licensed Products by the Government constitutes acknowledgment of our proprietary rights in the Licensed Products and such Licensed Products will be: (i) deemed "commercial computer software" or "commercial computer software documentation" and the Government's rights with respect to such Licensed Products and documentation are limited by this Agreement, pursuant to FAR § 12.212(a) and/or DFARS § 227.7202-1(a), as applicable, or their successors; and (ii) subject to "RESTRICTED RIGHTS", as described in

FAR52.227-14 and/or DFAR252.227-7013 et seq., as applicable. Use, duplication, or disclosure by the Government is subject to restrictions as set forth in these regulations.

**Exhibit A**  
**Product Terms**

If you have ordered the following products, your use of that product will be subject to the Product Terms below. Capitalized terms not defined below will have the same meanings set out in this Agreement.

**SendSuite® Live and SendPro® Enterprise (On-Premise)**

**Warranty**

Due to its installation procedures, the Warranty Period for the SendSuite Live and SendPro Enterprise (On-Premise) shipping software for multiple sites ("Multi-Site Software") is 90 days from the date of Acceptance of the Multi-Site Software at the initial site. "Acceptance" will be deemed to have occurred on the earlier of: (i) when you have indicated acceptance of the Licensed Products; (ii) after 30 days from delivery of the Licensed Products (the "Acceptance Period") unless you provided a notice of rejection during such period; or (iii) when the Licensed Products have been installed and conform to all substantial operational functions described in the user manual. You will not unreasonably withhold or delay Acceptance.



## SCHEDULE H.2 TO PARTICIPATING ADDENDUM

If you ordered any of the following products, your use of the product(s) will be governed by these terms below: Cost Accounting, INVIEW™, Locker Management, , SendPro® Analytics, SendPro® Enterprise (On-Demand), SendPro® Mailstation, SendPro® Online, SendPro® Online with Equipment Lease, SendSuite® Tracking Online and SendPro360.

### **ON-DEMAND SUBSCRIPTION SERVICES AGREEMENT**

**For NASPO ValuePoint**

**State of Michigan**

**(Last modified August, 2021)**

Thanks for using our on-demand subscription services. These terms define the terms and conditions under which you're allowed to use the on-demand subscription services and how we'll treat your account while you're utilizing the on-demand subscription services. If you have any questions about our terms, feel free to contact us.

We'll start with the basics, including a few definitions that should help you understand this agreement. This On-Demand Subscription Services Agreement (this "Agreement") is between you and Pitney Bowes Inc. ("we", "us", and "our"). This Agreement applies to on-demand subscription services as identified in an Order. Your on-demand subscription services may also require one or more Statements of Work (each a "SOW").

The web sites through which you access the on-demand subscription services (each a "Site"; the on-demand subscription services and the Sites are collectively called the "Services") are owned and operated by us or our vendors. Additional product-specific terms applicable to certain of the Services ("Product Terms") can be found in Attachment 1, attached hereto.

#### **1. Eligibility**

In order to use the Services, you must provide true, complete and up to date contact information for so long as you access the Services. You won't use the Services in a way that violates any laws or regulations, including any relating to data protection and privacy. We may refuse service or close your account if you fail to comply with this Agreement.

#### **2. Use of the Service**

a) As long as you continue to comply with the terms of this Agreement, we grant you a non-exclusive, non-transferable license to access and use the Services for the number of months, and for up to the number of users, number of locations, transactions, or other volume metrics specified in the Order. If applicable, you may upgrade your plan for additional fees. We reserve all rights to the Services not expressly granted to you in this Agreement.

b) You agree that you will use the Services only for business or commercial/governmental purposes and



not for personal, family or household purposes.

You won't use the Services for or make the Services available to any third party. In addition, you agree not to use the Services to send infringing, obscene, threatening or unlawful material or to knowingly disrupt other users of the Services. Disruptions include but are not limited to denial of service attempts, distribution of advertising or chain letters, propagation of computer worms and viruses, or use of the Services to make unauthorized entry to any other device accessible via the Services. For the Services and related software, you will not (i) make derivative works; (ii) sublicense, sell, rent, lease, lend, time-share, disclose, transfer or host the Services, documentation or any other confidential or proprietary information to or for any other parties; (iii) use the Services to modify or reproduce a third party's materials unless you have the legal right to do so; (iv) distribute any part of the Services over any network, including a local area network; or (v) extract any data from the Services and use such data for any purpose other than for your use of the Services.

c) If you are delivered software for on premise installation as part of the Service ("Service Software") the following additional terms apply: You won't (i) reverse engineer, decompile or disassemble the Service Software; (ii) make copies of the Service Software, other than a reasonable number of copies for use for disaster recovery purposes; and (iii) separate the components of the Service Software, or install and use such components separately and independently of the Service Software they comprise.

d) If you do not comply with this Section 2, you will be in material breach of this Agreement, and we will have the right to immediately terminate your use of the Services.

### **3. Term and Termination; Suspension**

a) The term of this Agreement for any particular Order, begins on the effective date of the Order and will remain in effect for each Service for the duration of the Order or SOW applicable to such Service. Each Order or SOW will be effective as of the date in such Order or SOW and will remain in effect until its expiration or until your account is closed.

b) Unless the Product Terms state otherwise, you may terminate your account at any time and for any reason by giving thirty days' notice to us.

c) We may at any time without notice: i) refuse to accept or fulfill your Orders or any part of any Orders for the Sites and/or Services; or ii) move, suspend or terminate all or any part of the Sites and/or Services or terminate your account if you breach your obligations under this Agreement or if we are required to do so by law or regulation.

d) Once your use of a Service is terminated, (i) we may permanently delete your account and all the data associated with it, in accordance with our records management policies and as permitted by applicable law, (ii) you must immediately stop using the Service and Software, and remove any Software from the computers on which it was installed, and (iii) your access to the Service will continue through the current billing period for access to the Service (the "Billing Period") for which you have paid in advance, unless you have failed to comply with this Agreement, in which case your access will be immediately revoked. You won't be entitled to a refund from us under any circumstances.

e) Termination of this Agreement will be in addition to and not in lieu of any other legal or equitable remedies available to us.

### **4. Changes**

We may change the Services and any features from time to time, and if such changes are material, we

will notify you by sending an email to the last email address you gave to us in Exhibit 1. If you do not wish to continue using the modified Services, you may terminate your use of the Service, effective the last day of the current Billing Period for which you have paid in advance.

## **5. Account and Password**

By registering for the Services, you will be prompted to establish certain passwords and provide other access information to enable you to use the Services. You represent that you have all necessary authority to establish an account with us on behalf of the business. The account name, password and access information is confidential information and should be used solely by you to access your account and use the Services. You are responsible for keeping your account name, password and access information confidential. You will take all reasonable steps to prevent unauthorized access to your account and you will immediately notify us of any unauthorized use of your accounts or any other breach of security. We aren't responsible for any losses due to stolen or hacked passwords.

## **6. Account Disputes**

We don't arbitrate disputes over who owns an account. You won't request access to or information about an account that's not yours. We decide who owns an account based on the information that has been provided to us with respect to the account, and if multiple people or entities are identified, then we will rely on the contact information listed for that account.

## **7. Personal Information**

If any of the Services collects or stores individually identifiable personal information, then we will comply with Exhibit 1 and our privacy statement located at <http://www.pitneybowes.com/us/legal/privacy-statement.html> as it may be updated by us from time to time (the "Privacy Statement"). In the event of a conflict between our Privacy Statement and Sections 30, 31 and 32 of Exhibit 1 shall govern.

## **8. Trademarks**

Pitney Bowes, the Pitney Bowes logo, and associated brand names and domain names are our intellectual property in the United States and other countries. All marks not owned by us are the property of their owners. You may not use, and nothing contained on the Sites or in this Agreement grants any right to use, any trademark displayed on the Site without our written permission or from the owner of the trademark. In addition, except as explicitly set forth in this Agreement, you will not use any copyrighted work displayed on the Sites or any of our other intellectual property without our prior written consent.

## **9. Feedback; Data**

a) You grant to us (and our affiliates and vendors, if applicable) the right to use the data you provide to us as necessary to provide the Services and as provided in Exhibit 1 and our Privacy Statement. We reserve the right to use, without limitation, any anonymized or aggregated data that does not identify you or any user of the Service relating to use of the Service. We retain the right to use data derived from your use of the Service for our internal purposes and for the purposes of performing analytics on the Service, or for improving or enhancing the Service or other products or services offered by us to our customers, all in accordance with Exhibit 1 and our Privacy Statement., In the event of a conflict between our Privacy Statement and Sections 30, 31 and 32 of Exhibit 1 shall govern.

b) You assign to us all right, title, and interest (including all rights in copyright and resulting patents) in feedback and suggestions, provided to us related to your use of the Services.

c) You'll ensure that you have the appropriate rights to (including the right to provide to us) all the information that you provide to us under subsection (b) immediately above.

## **10. Product Support**

As part of your access to the Services, we will provide you with product support in accordance with the terms in Attachment 2 – Product Support Terms.

## **11. SERVICE AVAILABILITY; DISCLAIMERS**

**a) YOUR ACCESS TO AND USE OF THE SERVICES MAY BE INTERRUPTED FROM TIME TO TIME FOR VARIOUS REASONS, INCLUDING MALFUNCTION OF EQUIPMENT, PERIODIC UPDATING, MAINTENANCE OR REPAIR OF THE SITES, OR OTHER ACTIONS THAT WE MAY ELECT TO TAKE.**

## **12. Third Party Sites and Data**

The Sites and this Agreement may contain links to third party websites, including links to the websites of carriers ("Linked Sites"). The Linked Sites are not under our control and we are not responsible for the contents of any Linked Site, including any link contained in a Linked Site, or any changes or updates to a Linked Site. You should contact the site administrator or webmaster for those Linked Sites if you have any concerns regarding such links or the content located there. If the Services perform an address validation function, license terms applicable to use of the USPS data related to such function are found at <http://www.pb.com/license-terms-of-use/usps-terms.shtml> and are incorporated in this Agreement by reference.

## **13. Compliance with Laws**

Each party will comply with all applicable federal, state and local laws, rules and regulations, including export regulations and privacy laws. You will be solely responsible for the content of all data submitted to us in connection with our provision of the Services and will comply with all laws, rules and regulations relating to the use, disclosure and transmission of such data.

## **USPS Regulations.**

If you use the Service to print postage or send parcels, letters, and flats ("Packages") with the USPS, you must comply with all USPS regulations applicable to the use of the Service. If you: (a) use your account in a fraudulent or unlawful manner; (b) do not use your account during a consecutive twelve month period; (c) fail to exercise sufficient control over your account to prevent fraudulent or unlawful use; (d) cause or allow the account to be utilized outside the United States without the prior written authorization of the Manager of Retail Systems and Equipment, U.S. Postal Service, Washington DC 20260; or (e) otherwise fail to abide by the provisions of postal regulations and these terms regarding care and use of your account, then your account may be cancelled. You acknowledge and agree that your account will be closed and your ability to use the Service terminated by us for any of the reasons described above or upon demand by the USPS. You agree that any use of the Service to fraudulently deprive the USPS of revenue can cause you to be subject to civil and criminal penalties applicable to fraud and/or false claims against the United States. The submission of a false, fictitious, or fraudulent statement can result in imprisonment for up to five (5) years and a fine of up to \$10,000 (18 U.S.C. 1001). In addition, a civil penalty of up to \$5,000 and an additional assessment of twice the amount falsely claimed may be imposed (31 U.S.C. 3802). The mailing of matter bearing a fraudulent imprint is

an example of a violation of these statutes. The USPS has granted to us the license as a PC postage vendor to create a shared postage evidencing system that users will use to dispense postage. As a user of such Service, you must understand and acknowledge that authorization to use the Service is granted by the USPS. You accept responsibility for control and use of the Service and agree to abide by all rules and regulations governing its use. The USPS may deny use of or revoke authorization to use a postage evidencing system in the event of (i) failure to comply with rules and regulations; (ii) submission of false or fictitious information; (iii) entering of a series of unpaid or short-paid mail pieces and/or packages in the mail stream; (iv) use of the system for any illegal scheme or enterprise; (v) use of the system outside the customs territory of the United States; or (vi) possession of a decertified system. You must make the postage evidencing system and transaction records available and surrender the system to us, the USPS, or its agent when notified to do so.

#### **14. U.S. Government Restricted Rights**

If you are an agency of the United States Government, use of the Services by the Government constitutes acknowledgment of our proprietary rights in software contained in the Services, and such software will be: (i) deemed “commercial computer software” or “commercial computer software documentation” and the Government’s rights with respect to such software and documentation are limited by this Agreement, pursuant to FAR § 12.212(a) and/or DFARS § 227.7202-1(a), as applicable, or their successors; and (ii) subject to “RESTRICTED RIGHTS,” as described in FAR52.227-14 and/or DFAR252.227-7013 et seq., as applicable. Use, duplication, or disclosure by the Government is subject to restrictions as set forth in these regulations.

# Attachment 1 – Product Terms

## **SendPro® Online Product Terms**

(Last modified August, 2021)

### **Use of the Service**

In order to use the Service, you must complete the registration process. You may use the Service on behalf of third parties. You may permit your third-party contractors to access the Service solely on your behalf and for your benefit so long as the contractor agrees to fully comply with all terms and conditions applicable to the Service. You remain responsible for each contractor's compliance with those terms and conditions and any breach of those terms. All rights granted to any contractor under these terms terminate immediately upon (i) conclusion of the services provided by the contractor to you that gives rise to such right or (ii) termination of your account or your use of the Services.

### **Fees**

The fees for the use of the Service don't include the postage, shipping or other charges imposed by the carrier for printing postage or labels and sending letters or parcels through the United States Postal Service (the "USPS") or another carrier.

### **Trial Period**

If your subscription includes a free trial period and if you don't wish to continue your subscription past the trial period, you must cancel your subscription before the last day of the trial period to avoid being billed for the first month of the subscription once the trial period has expired.

### **Credit Cards – Accounts with The Pitney Bowes Bank, Inc.**

Unless (i) you have established and maintain a Purchase Power® account or a Reserve Account with The Pitney Bowes Bank, Inc. (the "Bank") and (ii) you have available funds in a Reserve Account or have available credit under a Purchase Power account, then as long as you're utilizing the Service or have an outstanding balance with us, you'll provide us with valid credit card information. You'll replace the information for any credit card that expires with information for a different valid credit card. Some charges for the sending of parcels may be billed directly by the Carrier. For all other charges for postage or for the sending of parcels through the Service, including, without limitation, any charges imposed by a Carrier for which the charges paid by you were insufficient (all such charges are called "Shipping Charges") and all fees for the use of the Service, we will charge your Reserve Account, if established, with any remaining unpaid balance being charged to your Purchase Power account, if any. In the event that (i) you do not maintain a Reserve Account or a Purchase Power account with the Bank or (ii) you do not have available funds in a Reserve Account and do not have available credit under a Purchase Power account, all such fees and charges will be charged to your credit card together with a convenience fee of 3 ½% of the amount of all Shipping Charges and you authorize us to do so.

### **Carrier Requirements**

If you use the Service to send parcels with a carrier other than the USPS, you must comply with the requirements of that carrier. The terms governing the use of FedEx to send parcels are located at <https://www.fedex.com/> and the terms governing the use of United Parcel Service are located at <https://www.ups.com/>.

# Pitney Bowes SendPro® Enterprise (On-Demand) Subscription Product Terms

(Last modified September 4, 2019)

## Defined Terms

“**Package(s)**” means parcels, letters, and flats shipped under this Agreement.

“**Carrier**” means a third-party shipping vendor selected by you through the Service.

“**Tender**” means the transfer of physical custody of a Package that has a PBI compliant shipping label affixed to it, by you to a Carrier as demonstrated by the scanning of the label by the Carrier.

## Use of the Service

You may permit your third-party contractors to access the Service solely on your behalf and for your benefit so long as the contractor agrees to fully comply with all terms and conditions applicable to the Service. You remain responsible for each contractor’s compliance with those terms and conditions and any breach of those terms. All rights granted to any contractor under these terms terminate immediately upon (i) conclusion of the services provided by the contractor to you that gives rise to such right or (ii) termination of your account or your use of the Service.

Each individual Package Tendered for shipment must originate from a location in the U.S. or certain U.S. territories. You agree that you will only Tender Packages to a Carrier with shipping labels that correspond to the transportation method you selected.

## Fees

The fees for the use of the Service don’t include the postage, shipping or other charges imposed by the Carrier for printing postage or labels and sending Packages through the United States Postal Service (the “USPS”) or another Carrier.

## Using USPS

If you use the Service for shipping with the USPS, the USPS must approve your registration prior to use of their shipping services and you must comply with all applicable terms listed at <https://www.usps.com>. Failure to comply will constitute a material breach and the USPS will provide written notice of termination. However, if allowed by USPS, you will have ten (10) days from date notice is received from USPS or a copy of such written notification from us, whichever is earlier, to cure your violations of USPS policies and procedures and have USPS rescind its termination notice.

You may be entitled to receive discounted rates for Packages you Tender to the USPS for shipment. These rates will be programmed into the Service and will be made available to you for the duration of this Agreement. Rates are subject to change at any time.

When you print USPS postage or labels using the Service, the following information is collected in order to generate valid postage indicia: (1) the date and time of the transaction; (2) the destination ZIP Code™; (3) the rate category of each indicium created and the details of any associated special services, such as special handling or restricted delivery; and (4) the amount of postage printed.

If you use the Service to print electronic USPS Tracking (formerly Delivery Confirmation), Signature Confirmation™, or the electronic Priority Mail Express® label, complete return and destination address data, package descriptions, reference IDs, and delivery statuses for each label printed by you is maintained by us for accounting and reporting purposes.

You represent and warrant that you have maintained and will maintain any and all certifications, licenses or other authorizations necessary or proper in furtherance of your use of the Service, including without limitation, federal certification pursuant to United States Department of Transportation regulations regarding the identification, processing and transportation of hazardous materials, if applicable.

**Non-USPS Carrier Requirements**

If you use the Service to send Packages with a Carrier other than the USPS, you must comply with the requirements of that Carrier.

## **SendSuite® Tracking Online Product Terms**

### **Your Responsibilities**

You represent and warrant that you have obtained and will maintain any and all certifications, licenses or other authorizations necessary or proper related to your use of the Service, including without limitation, federal certification pursuant to United States Department of Transportation regulations regarding the identification, processing and transportation of hazardous materials, if applicable.

### **Our Responsibilities**

The Service may be inaccessible or inoperable during certain periods so that we can perform routine maintenance support services (“Scheduled Downtime”). Scheduled Downtime will be scheduled outside normal business hours, such as nights and weekends. We’ll use reasonable commercial efforts to minimize any disruption, inaccessibility and/or inoperability of the Services in connection with Scheduled Downtime or other disruption of Service.

### **Disclaimers**

THE SERVICE MAY CONTAIN A DISABLING DEVICE OR DEVICE REQUIRING ENABLEMENT: (i) TO COMPLY WITH REQUIREMENTS OF REGULATORY AUTHORITIES; AND/OR (ii) TO PREVENT USE OF THE SERVICE BEYOND THE TERM OF AN ORDER.



## SendPro 360 Sending Module Product Terms

### Defined Terms

“**Package(s)**” means parcels, letters, and flats shipped under this Agreement.

“**Carrier**” means a third-party shipping vendor that you use within the Service.

“**Tender**” means the transfer of physical custody of a Package that has a PBI compliant shipping label affixed to it, by you to a Carrier as demonstrated by the scanning of the label by the Carrier.

### Use of the Service

In order to use the Service, you must complete the registration process. You may permit your third-party contractors to access the Service solely on your behalf and for your benefit so long as the contractor agrees to fully comply with all terms and conditions applicable to the Service. You remain responsible for each contractor’s compliance with those terms and conditions and any breach of those terms. All rights granted to any contractor under these terms terminate immediately upon (i) conclusion of the services provided by the contractor to you that gives rise to such right or (ii) termination of your account or your use of the Service.

Each individual Package Tendered for shipment must originate from a location in the U.S. or certain U.S. territories. You agree that you will only Tender Packages to a Carrier with shipping labels that correspond to the transportation method you selected.

### Fees

The fees for the use of the Service don’t include the postage, shipping or other charges imposed by the Carrier for printing postage or labels and sending Packages through the United States Postal Service (the “USPS”) or another Carrier.

### Credit Cards – Accounts with The Pitney Bowes Bank, Inc.

Unless (i) you have established and maintain a Reserve Account with The Pitney Bowes Bank, Inc. (the “Bank”) and (ii) you have available funds in a Reserve Account, then as long as you’re utilizing the Service or have an outstanding balance with us, you’ll provide us with valid credit card information. You’ll replace the information for any credit card that expires with information for a different valid credit card. Some charges for the sending of parcels may be billed directly by the Carrier. For all other charges for the sending of parcels through the Service, including, without limitation, any charges imposed by a Carrier for parcels for which the charges paid by you were insufficient (all such charges are called “Shipping Charges”) and all fees for the use of the Service, we will charge your Reserve Account, if established. In the event that (i) you do not maintain a Reserve Account with the Bank or (ii) you do not have available funds in a Reserve Account, all such fees and charges will be charged to your credit card together with a convenience fee of 3 ½% of the amount of all Shipping Charges and you authorize us to do so.

### Using USPS

If you use the Service for shipping with the USPS, you must comply with all applicable terms listed at <https://www.usps.com>. Failure to comply will constitute a material breach and the USPS will provide written notice of termination. However, if allowed by USPS, you will have ten (10) days from date notice is received from USPS or a copy of such written notification from us, whichever is earlier, to cure your violations of USPS policies and procedures and have USPS rescind its termination notice.

You may be entitled to receive discounted rates for Packages you Tender to the USPS for shipment. Rates are subject to change at any time.

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**Non-USPS Carrier Requirements**

If you use the Service to send Packages with a Carrier other than the USPS, you must comply with the requirements of that Carrier. The terms governing the use of FedEx to send parcels are located at <https://www.fedex.com/> and the terms governing the use of United Parcel Service are located at <https://www.ups.com/>.

**SendPro 360 Locker Management Module Product Terms**  
**and SendPro 360 Receiving Module Product Terms**

**Your Responsibilities**

You represent and warrant that you and any user of the Service have obtained and will maintain any and all certifications, licenses or other authorizations necessary or proper related to use of the Service, including without limitation, federal certification pursuant to United States Department of Transportation regulations regarding the identification, processing and transportation of hazardous materials, if applicable.

**Use of the Service**

You may permit your third-party contractors to access the Service solely on your behalf and for your benefit so long as the contractor agrees to fully comply with all terms and conditions applicable to the Service.

You remain responsible for each contractor's compliance with those terms and conditions and any breach of those terms. All rights granted to any contractor under these terms terminate immediately upon (i) conclusion of the services provided by the contractor to you that gives rise to such right or (ii) termination of your account or your use of the Service.

**Our Responsibilities**

The Service may be inaccessible or inoperable during certain periods so that we can perform routine maintenance support services ("Scheduled Downtime"). Scheduled Downtime will be scheduled outside normal business hours, such as nights and weekends. We'll use reasonable commercial efforts to minimize any disruption, inaccessibility and/or inoperability of the Services in connection with Scheduled Downtime or other disruption of Service.

**Disclaimers**

THE SERVICE MAY CONTAIN A DISABLING DEVICE OR DEVICE REQUIRING ENABLEMENT: (i) TO COMPLY WITH REQUIREMENTS OF REGULATORY AUTHORITIES; AND/OR (ii) TO PREVENT USE OF THE SERVICE BEYOND THE TERM OF AN ORDER.

## Attachment 2 – Product Support Terms

### On-Demand Subscription Services Product Support Terms

(Last modified: February 11, 2020)

As part of your access to the Services, we will provide you with the following:

- a) SELF HELP. 24/7 access to web self-help and user and support articles.
- b) TECHNICAL SUPPORT. We provide technical support over the phone and via the Internet (“Remote Support”) unless otherwise specified. To receive Remote Support you must provide us access to your device. When submitting an issue, you will be requested to provide sufficient detail for us to reproduce the problem. Additional support, such as diagnosis of your IT environmental or infrastructure issues, may be available, subject to additional terms and fees.

(i) Telephone Support. PB product support is available from 7 am to 7 pm Central Time, Monday through Friday, excluding PB observed US holidays (“Normal Operating Hours”). You may contact PB Product Support toll-free by phone during Normal Operating Hours. Contact numbers are located at <https://www.pitneybowes.com/us/business-services/maintenance-support.html>.

(ii) Electronic Requests. You may submit a request to PB Product Support electronically by going to [www.pitneybowes.com](http://www.pitneybowes.com), signing into Your Account, and submitting a ticket 24 hours a day, 7 days a week. Requests received outside Normal Operating Hours are processed the next business day.

(iii) If there are 50 or more users within the Purchasing Entity, then you must identify a limited number of staff who are responsible for escalating requests for support assistance to us (“Authorized Personnel”). We will provide remote technical support assistance to the Authorized Personnel for issue resolution with the Services. Authorized Personnel will then be responsible for providing technical support to other users within your organization. Any issue escalated to us for technical support must be related to Services provided by us (and not to your organization’s operating environment or other hardware or software). Additional fees will apply if your organization does not have Authorized Personnel available.

# SCHEDULE I.1 TO STATE OF MICHIGAN PARTICIPATING ADDENDUM

## OPTION A – NASPO VALUEPOINT STATE AND LOCAL LEASE TO OWN TERMS AND CONDITIONS

Pitney Bowes Global Financial Services LLC (as defined below) will serve as a sub-contractor pursuant to the Master Agreement awarded under Solicitation BPM003137 and will be the Lessor under any Lease to Own lease. PBGFS does not warrant, service or otherwise support the equipment. Those services are provided by Pitney Bowes Inc. (PBI). Due to USPS regulations, only PBI can own a Meter. This document contains the lease terms that are applicable to any Order issued under the Master Agreement for a Lease to Own Lease of Equipment. Option A may not be used by non-profit organizations.

The pricing plan for the NASPO ValuePoint Lease to Own Terms and Conditions is as follows:

### Monthly Rate Factors:

<u>Term:</u>	<u>Lease to Own Rate:</u>
24	.0464
36	.0326
48	.0257
60	.0216

Thank you for choosing Pitney Bowes products and services. These Terms, the executed order (the “**Order**”), your State’s Participating Addendum, including Schedules and Exhibits thereto and the NASPO ValuePoint Master Agreement and any Schedules and exhibits attached thereto, make up this Agreement. Please read this Agreement carefully.

Let’s start with a few definitions that should help you better understand your agreement. “**PBI**” means Pitney Bowes Inc. “**Pitney Bowes**” means PBI and its subsidiaries. “**You**” or “**your**” refers to the entity identified on the Order. “**Master Agreement**” means NASPO ValuePoint Master Agreement awarded under Solicitation BPM003137 for Mailing Equipment, Supplies and Maintenance contract administered by the State of Arizona and shall consist of: the solicitation as amended, any requests for clarifications and/or best and final offers, the proposal submitted by us, our responses to any requests for clarifications and/or our best and final offer. “**State Participating Addendum**” means the bilateral agreement executed by PBI and your participating state incorporating the Master Agreement. “**Meter**” means any postage meter supplied by PBI under the Order, including (i) in the case of a Connect+®, a SendPro® P series or a SendPro C series mailing system, the postal security device that accounts for and enables postage to be purchased and printed (“**PSD**”), and (ii) in the case of all other mailing systems, the PSD, the user interface or keyboard and display and the print engine. “**Meter Services**” means: access to the PSD to download, account for, and enable printing of postage within a PBI Postage Evidencing System as defined in Title 39, Part 501 of the Code of Federal Regulations (“**CFR**”); USPS mandated processes associated with the PSD, including registration, usage reporting and withdrawal; repair or replacement of the PSD as described in Section 27; and the Soft-Guard Program outlined in Section 29. “**Equipment**” means the equipment listed on the Order, excluding any Meter or standalone software. “**Lease**” means Lease terms and conditions set out in Sections A.1 through A.25. “**PA Ex 1**” means Exhibit 1 to the State Participating Addendum.

The provisions included in these Terms consist of: (i) Lease to Own Terms and Conditions; (ii) a Service Level Agreement (“**SLA**”); (iii) Equipment Rental and Meter Services Terms; (iv) an Acknowledgement of Deposit required by the United States Postal Service in any transaction involving a Meter; (v) Purchase Option A - NASPO ValuePoint Lease to Own Terms and Conditions - Michigan (Version 3/22)

Power® Terms for a limited purpose credit line that may be available to you; and (vi) provisions relating to specific products; the Master Agreement, the Participating Addendum, Participating Addendum Exhibit 1 and all Schedules and Exhibits thereto.

## **A. LEASE TO OWN TERMS AND CONDITIONS**

### **1. Lease of Equipment; Provider of Leasing Services**

If you are leasing Equipment, these Lease terms apply. PBI is the manufacturer of the Equipment. Pitney Bowes Global Financial Services LLC, a wholly-owned subsidiary of PBI, or one of its subsidiaries (“PBGFS”), provides you with the leasing services and payment processing and related services. Except as otherwise provided herein, the duration or term of this Lease (“Lease Term”) will consist of an Initial Lease Term, which will end with your current fiscal year and “**Renewal Lease Terms**”, each of which is a subsequent fiscal year for which funds have been appropriated to make Lease Payments under the Lease. At the end of the Initial Term, and at the end of each Renewal Lease Term, the Lease Term will be automatically extended upon the successive appropriation by your legislative body of amounts sufficient to pay Lease Payments during your next succeeding fiscal year, or Renewal Lease Term, until all Lease Payments have been paid up to the number of months, as stated in the Order, unless the Lease Term ends earlier due to (i) termination at PBGFS’s option upon the occurrence of an event of default, provided that all payment obligations under this Lease for the current fiscal year for which a State appropriation has been made survive termination of this lease for such default, or (ii) termination for non-appropriation under Section 8 below. For a New Lease, the Initial Lease Term begins on the date the Equipment is shipped if PBI doesn’t install the Equipment, and the date of installation if PBI installs the Equipment (“Install Equipment”). If you are entering into a Lease to enhance, upgrade or replace Equipment you are leasing from PBGFS, and if all Equipment has shipped and all Install Equipment has been installed, then your Lease Term will commence to align with your current periodic invoice date. By entering into the Lease, you confirm your intention to continue to lease the Equipment beyond the Initial Lease Term. **You may not cancel this Lease for any reason, except as expressly set forth in Section 8 below and all payments directly for lease of Equipment, (“Lease Payments”) are unconditional, except as provided herein.** PBI owns any Meter as USPS regulations require.

### **2. Payment Terms**

PBGFS will invoice you quarterly in arrears for Lease Payments. If permitted in the Participating Addendum Exhibit 1, in addition to Lease Payments, PBGFS will invoice you quarterly in arrears for all additional payments on the Order, unless the Order says otherwise (each such payment is a “**Periodic Payment**”). You will make each Periodic Payment in accordance with the payment provisions of PA Ex 1. Your Periodic Payment may include, amounts carried over from a previous lease, software license and maintenance fees and other charges, if set forth in an Order. Any Meter Services fees, SLA fees and subscription fees (collectively “**PBI Payments**”) will be included with your Periodic Payment and begin with the start of the Lease Term. After the Lease Term, your Periodic Payment will increase if your PBI Payments increase. Any software license and maintenance fees and other charges, and any Meter Service fees, SLA fees, and subscription Fees, and any other payment that is not a Lease Payment, are not fees or payments directly for lease of Equipment and are not unconditional.

Pursuant to 1984 PA 279, MCL 17.51-17.57, the State will pay PBGFS a charge on any Lease Payment, which remains unpaid after the date such Lease Payment is due. Lease Payments consist of principal and interest portions related solely to use and possession of Equipment PBGFS understands and intends, and the State understands and intends that the State’s obligation to pay Lease Payments under this Lease will constitute a current expense of the State of Michigan and will not in any way be construed to be a debt or general obligation of the State of Michigan in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by the State, including, but

not limited to, Const 1963, art 9, §§12, 17, nor will anything contained herein or in a Lease constitute a pledge of the general tax revenues, credit, funds or monies of the State.

### **3. Equipment Ownership**

PBI owns any Meter. Title to the Equipment shall pass to you upon installation. However, you and we agree that title shall automatically revert to us in the event of default, or termination due to non-appropriation under Section 8. If you default, or terminate this Agreement by non-appropriation under Section 8, you, at your expense, shall return the Equipment and Meter. You will, as specified by us, either properly pack and return them to us in the return box and with the shipping label provided by us or furnish them to a service carrier specified by us to pick up and ship them to us in the same condition as when delivered to you, reasonable wear and tear excepted.

**4. WARRANTY AND LIMITATION OF LIABILITY**  
**EACH OF PBGFS AND THE BANK (AS HEREINAFTER DEFINED) MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR FREEDOM FROM INTERFERENCE OR INFRINGEMENT, AND PBGFS AND THE BANK AREN'T LIABLE FOR ANY LOSS, DAMAGE (INCLUDING INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES) OR EXPENSE CAUSED DIRECTLY OR INDIRECTLY BY THE EQUIPMENT.**

### **5. Equipment Obligations**

You will keep the Equipment free from liens and in good condition and working order. We may inspect the Equipment and related maintenance records. You may not move the Equipment from the location specified on the Order without our prior written consent.

### **6. Security Interest**

**You grant us a purchase money security interest in the Equipment, any replacements, and any proceeds from the sale of the Equipment, to secure payment of any balance due. We have the right to recover the Equipment if you haven't paid for it. We may file a copy of this Agreement as a financing statement with the State authorities. If you are leasing Equipment, you authorize us to file a Uniform Commercial Code financing statement naming you as debtor/lessee with respect to the Equipment in order to protect our interest in the Equipment.**

### **7. Other Lease Terms**

- (a) If more than one lessee is named in this Lease, liability is joint and several.
- (b) You may not assign or sublet the Equipment, the Meter or this Agreement without our prior written consent. Any assignment without our consent is void. We may sell or assign all or part of this Lease or the Equipment, but it will not affect your rights or obligations.
- (c) We will provide you with a welcome letter by email.
- (d) All applicable taxes required to be collected by us will be shown on the invoice.

### **8. NON-APPROPRIATION**

If sufficient funds to enable you to continue payment on the lease (Lease Payments) are not appropriated, negatively appropriated, if there is a budget shortfall, or funds are otherwise not made available for a

subsequent fiscal year, you may terminate the Lease effective at the end of the last fiscal year for which funds have been appropriated or otherwise made available for the Lease. You must give PBGFS notice as soon as practical, but failure to provide such notice does not impact your right to terminate the Lease under this section.

## **9. Representations**

You hereby represent and warrant that (a) you are a state or political subdivision thereof within the meaning of Section 103(c) of the Internal Revenue Code of 1986, as amended (the "Code"); and (b) you have the power and authority under applicable law to enter into this Agreement and you have been duly authorized to execute and deliver this Agreement and carry out your obligations hereunder. You acknowledge that a portion of each Periodic Payment you shall pay includes interest and that this Agreement is entered into based on the assumption that the interest portion of each Periodic Payment is not includible in gross income of the owner thereof for Federal income tax purposes under Section 103(a) of the Code. You shall, at all times, do and perform all acts and things necessary and within your control in order to assure that such interest component shall be so excluded. If any interest is determined not to be excludible from gross income, your Periodic Payment shall be adjusted in an amount sufficient to maintain our original after tax yield utilizing our consolidated marginal tax rate, which adjusted Periodic Payments you agree to pay as provided in this Agreement, subject to Section 8. The rate at which the interest portion of Periodic Payments is calculated is not intended to exceed the maximum rate or amount of interest permitted by applicable law. If such interest portion exceeds such maximum, then at our option, if permitted by law, the interest portion will be reduced to the legally permitted maximum amount of interest, and any excess will be used to reduce the principal amount of your obligation or be refunded to you. You shall not do (or cause to be done) any act which will cause, or by omission of any act allow, this Agreement to be an "arbitrage bond" within the meaning of Section 148(a) of the Code or a "private activity bond" within the meaning of Section 141(a) of the Code. At the time of your execution of this Agreement, you shall provide us with a properly prepared and executed copy of the appropriate US Treasury Form 8038-G or 8038-GC and you appoint us as your agent for the purpose of maintaining a registration system as required by Section 149(a) of the Code. This Section shall survive the termination of this Agreement.

## **10. PBGFS MAKES NO REPRESENTATION OR WARRANTY AS TO ANY THIRD PARTY EQUIPMENT. WE AGREE TO PASS THROUGH TO YOU ALL THIRD PARTY EQUIPMENT WARRANTIES TO THE EXTENT PERMITTED.**

## **11. Limitation of Liability**

**PBGFS's TOTAL LIABILITY (INCLUDING ANY LIABILITY OF ITS SUPPLIERS) IS LIMITED TO THE LEASE PAYMENTS PAID BY YOU FOR THE APPLICABLE EQUIPMENT. NEITHER PBGFS NOR ITS SUPPLIERS IS LIABLE FOR ANY: (I) DAMAGE YOU MAY INCUR BY REASON OF YOUR MISUSE OR NEGLIGENT USE OF THE EQUIPMENT OR YOUR NEGLIGENT ACTS OR OMISSIONS OR (II) INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY NATURE WHATSOEVER, INCLUDING COMMERCIAL LOSS, OR LOST PROFITS, DATA OR GOODWILL, FOR ANY MATTER RELATING TO THIS AGREEMENT.**

## **12. Default and Remedies**

(a) If you fail to make any lease payment with respect to leased Equipment within 14 days after we give you written notice of an overdue payment, or you breach any other obligation under this Agreement with PBGFS or with respect to Meter Rentals and such breach continues for 30 days after we give you notice or you become insolvent or file for bankruptcy, you will be in default and PBGFS or PBI may, as applicable:



- (i) cancel the Lease;
- (ii) require you to pay to PBGFS immediately all Lease Payments payable under the Lease for the remainder of the Initial Lease Term or Renewal Lease Term, as applicable and provided any previous appropriation for said purpose has not been reversed;
- (iii) disable the Meter;
- (iv) require you to return the Equipment and Meter, and delete or remove software; and deny you access to software;
- (v) if you don't return the Equipment, require you to immediately pay to us an amount equal to the value of the Equipment, as determined by us;
- (vi) charge you a check return fee for payments made by you with insufficient funds; and
- (vii) pursue any other remedy, including repossessing the Equipment and Meter without notice to you. To the extent permitted by law, you waive any notice of our repossession or disposition of the Equipment or Meter. By repossessing the Equipment or Meter, we aren't waiving our right to collect the balance due.

(b) We may suspend any services during any period that your account is more than thirty days past due.

### **13. Taxes**

The parties contemplate that the Equipment will be used for governmental purposes and that the Equipment will therefore be exempt from all property taxes. If the use, possession or acquisition of any Equipment is nevertheless determined to be subject to taxation, you will pay when due all taxes and governmental charges lawfully assessed or levied against or with respect to such Equipment. In addition, it is your intention and our intention that the interest portion of the Lease Payments you make be and remain free from federal income taxation. You will not intentionally perform or fail to perform any act or enter into any agreement or use or permit the use of the Equipment or any portion thereof in a manner that will have the effect of terminating the exemption from federal income taxation of the interest portion of the Lease payments.

### **14. Embedded Software; Applications**

(a) Our Equipment may contain embedded software. For embedded software, you agree that: (i) PBI and its licensors own the copyrights and other intellectual property to it; (ii) you are licensed only to use it with our Equipment in which it resides; (iii) you won't copy, modify, de-compile, or attempt to unbundle, reverse engineer or create derivative works of it; and (iv) you won't distribute or disclose it (or any portion) to anyone. The embedded software may contain third party software which is subject to any terms accompanying it. Technical support for embedded software will be given according to the SLA covering the Equipment with the embedded software.

(b) Certain products and services may provide you an opportunity to access applications provided by us or a third party. Each application you access will have its own terms and conditions applicable to your use of that application located within it, and by using the application you agree to those terms and conditions.

### **15. Miscellaneous**

(a) We will use your information in accordance with Exhibit 1 and our [Privacy Statement](#). In the event of a conflict between our Privacy Statement and Sections 30, 31 and 32 of Exhibit 1, Exhibit 1 shall govern.

(b) You agree to use the Equipment and Meter only for business, commercial, or governmental purposes, and not for personal, family, or household purposes.

- (c). Except as required by Executive Order or Directive, or Legislative action, you may not assign this Agreement without our prior written consent and you will provide us with notice of any such assignment as soon as practical.
- (d) Lease Payments, aren't subject to setoff or reduction.
- (e) This Agreement can only be changed if we both agree to do so in writing. You may use an Order to offer to obtain equipment but none of its provisions will modify or supersede these provisions unless we expressly agree in writing. If any provision in this Lease is found to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions won't be affected.
- (f) Our respective rights and obligations under Sections 11 (Limitation of Liability), 12 (Default and Remedies) and 13 (Taxes) will survive termination of this Agreement.
- (g) We may deliver any notice and other communication to you under this Lease by email to the email address that we have on file for you. You agree to the delivery of these notices and other communications by email. We may call you at any number you give to us.
- (h) You agree to comply with all applicable export control laws and regulations.

**16. Conflicts and Ethics.** PBGFS will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Lease; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Lease; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for PBGFS, any consideration contingent upon the award of the Lease. PBGFS must immediately notify the State of any violation or potential violation of these standards. This Section applies to PBGFS, any parent, affiliate, or subsidiary organization of PBGFS, and any subcontractor.

**17. Compliance with Laws.** The parties must comply with all federal, state and local laws, rules and regulations applicable to the Lease.

**18. Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, and [Executive Directive 2019-09](#). PBGFS and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex (as defined in Executive Directive 2019-09), height, weight, marital status, partisan considerations, any mental or physical disability, or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. Breach of this covenant is a material breach of this Contract.

**19. Unfair Labor Practice.** Under MCL 423.324, the State may void any contract or Lease with a PBGFS or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.

**20. Governing Law.** This Lease is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Lease are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in the Michigan Court of Claims. Complaints against the State must be initiated in Ingham County, Michigan. PBGFS waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. PBGFS must appoint an agent in Michigan to receive service of process.

**21. Non-Exclusivity.** Nothing contained in this Lease is intended nor is to be construed as creating any requirements contract with PBGFS, nor does it provide PBGFS with a right of first refusal for any future work. This Lease does not restrict the State or its agencies from acquiring similar, equal, or like services or Equipment from other sources.

**22. Limitation of Liability and Disclaimer of Damages. IN NO EVENT WILL THE STATE'S AGGREGATE LIABILITY TO PBGFS UNDER THIS LEASE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE MAXIMUM AMOUNT OF FEES PAYABLE UNDER THE APPLICABLE ORDER.** The State shall not be liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.

**23. Records Maintenance, Inspection, Examination, and Audit.** Pursuant to MCL 18.1470, the State or its designee may audit PBGFS's records to verify compliance with this Lease. PBGFS must retain and provide to the State or its designee and the auditor general upon request, all financial and accounting records related to the Lease through the Lease Term of the Lease and for 4 years after the latter of termination, expiration, or final payment under this Contract or any extension ("**Audit Period**"). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, PBGFS must retain the records until all issues are resolved.

Within 10 calendar days of providing notice, the State and its authorized representatives or designees have the right to enter and inspect PBGFS's premises or any other places where services are being performed, and examine, copy, and audit all records related to this Lease. PBGFS must cooperate and provide reasonable assistance. If financial errors are revealed, the amount in error must be reflected as a credit or debit on subsequent invoices until the amount is paid or refunded. Any remaining balance at the end of the Lease Term must be paid or refunded within 45 calendar days. This Section applies to PBGFS, any parent, affiliate, or subsidiary organization of PBGFS, and any subcontractor that performs services or provides Equipment in connection with this Lease.

**24.** PBGFS represents that it is neither currently engaged in nor will engage in the boycott of a person based in or doing business with a strategic partner as described in 22 USC 8601 to 8606;

**25. Waiver.** Failure to enforce any provision of this Lease will not constitute a waiver.

## **B. SERVICE LEVEL AGREEMENT**

### **1. Applicability of SLA**

This SLA section applies to you if an Order contains a request to provide service for any Equipment PBGFS leases, or PBI rents or sells on the Order, excluding Equipment with charges based on volume of use ("**Usage-based Equipment**") and any DI2000™ (the covered equipment is called "**Covered Equipment**"). PBI provides the warranties set forth in the Participating Addendum and the Master Agreement.

### **2. Service Level Options**

(a) (i) If you sign up for **Standard SLA** on the Order, PBI will provide at its option either repair or replacement services for the Covered Equipment during the Initial Service Term or any Renewal Service Term (each term as defined in Section 21) (the "**Service Term**"). You are also entitled to: (x) replacement

printheads for Covered Equipment without additional charge, except for printheads which need to be replaced as a result of any Excluded Circumstance, and except for integrated printhead/ink cartridges; and (y) two preventative maintenance service calls per calendar year. PBI will notify you when preventative maintenance is due or you can request preventative maintenance service. If your Covered Equipment needs repair, PBI may provide repair by remote access, diagnostics and service and/or by on-site repair service. Repair service is provided only for damage resulting from normal wear and tear. Repair service may include the use of new, reconditioned, or remanufactured parts and assemblies. PBI will provide parts or assemblies for discontinued equipment (or equipment not marketed as new) only if available. If PBI deems it necessary, PBI will dispatch a service technician to arrive at your location for on-site service. You won't incur hourly charges unless service is performed outside Normal Working Hours, which will be done only with your consent. **"Normal Working Hours"** means 8 a.m. – 5 p.m., Monday – Friday, excluding PBI-observed U.S. holidays, in the time zone where the Equipment or other items are located. There is no warranty for Excluded Circumstances. **"Excluded Circumstance"** is a circumstance outside of PBI's control, including an accident, your negligent or reckless use of the equipment, use of the equipment which exceeds our recommendations or in a way not authorized by this Agreement or any operator guide, use of the equipment in an environment with unsuitable humidity, line voltage, damage in transit, software virus not solely caused by us, loss of data, loss or fluctuation of power, fire, flood or other natural causes, and other external forces beyond our control, servicing of the equipment by someone other than us, failure to use required software updates, use of the equipment with any system where PBI has told you that PBI will no longer provide support or that PBI has advised you is no longer compatible, or use of third party supplies (such as ink), hardware or software that results in (i) damage to equipment (including damage to printheads), (ii) poor indicia, text or image print quality, (iii) indicia readability failures or (iv) a failure to print indicia, text or images.

(ii) If PBI determines that replacement of Covered Equipment is necessary, PBI will, at no additional cost to you, promptly ship new, reconditioned, or remanufactured equipment of the same or a functionally equivalent model to replace the affected Covered Equipment. Unless PBI instructs you otherwise, within five days of receiving the replacement equipment, you must pack the Covered Equipment to be replaced in the shipping carton that contained the replacement equipment, place the pre-paid return address label on the carton, and return it to PBI. You are responsible for the Covered Equipment until PBI receives it.

(b) The print engine(s), print engine components, structural components and printed circuit board assemblies supplied with or within the PBI Equipment may be reclaimed, reconditioned or remanufactured. These items are warranted to perform according to the same standards as the equivalent new item.

(c) The warranty doesn't cover ink, integrated printhead/ink cartridges, ink rollers, toner and drum cartridges, ribbons and similar items ("**Consumable Supplies**").

(d) **PBI MAKES NO REPRESENTATION OR WARRANTY AS TO ANY THIRD PARTY EQUIPMENT. WE AGREE TO PASS THROUGH TO YOU ALL THIRD PARTY EQUIPMENT WARRANTIES TO THE EXTENT PERMITTED.**

(e) **YOUR SOLE REMEDY FOR A WARRANTY CLAIM IS TO HAVE US REPAIR OR REPLACE THE PBI EQUIPMENT OR, IN THE CASE OF DEFECTIVE SERVICE, REPERFORM THE SERVICE.**

### **3. Service Term**

PBI will provide you with Service, as set forth and for the duration stated in the applicable Order. PBI reserves the right not to renew your SLA for any reason.

#### **4. SLA Fees**

You will pay the SLA fees) as identified in the Order, subject to our right to terminate the Lease and your right to terminate the Lease for the applicable Equipment or to terminate Services as set forth in PA Ex 1. SLA fees in any Order will be fixed at our pricing in effect at the time the Order is issued, for the period for which you sign up for Services in the Order. We may increase the SLA fees after the Initial Service Term, and any increases will be reflected on your invoice and shall be in accordance with the terms of the Master Agreement. If you receive service for repairs caused by any Excluded Circumstance, PBI will charge you for the service at PBI's current hourly rates and for any required parts. If you exceed the cycle volume of your Equipment specified on the Order, PBI may bill you for the additional cycles over the specified cycle volume (the additional cycles are called the "Overage"). The charge will be determined by reference to the rate in effect at the time that that an Overage first began. Upon request, you will provide the cycle volume to us. If you do not provide the cycle volume to us, PBI will estimate the cycle volume and send an invoice to you for any Overage based on our estimate. If, in the prior quarter, PBI estimated cycle volume and later receive actual cycle volume, then PBI will make adjustments based on actual usage on your next invoice.

#### **5. Service Changes**

PBI may modify its Service by giving written notice to you (a "**Service Change Notice**"), which will state whether the change is material. After receiving a Service Change Notice, if the change is material, you may terminate Service by creating a case at [pitneybowes.com/us/contact-us.html](http://pitneybowes.com/us/contact-us.html) (follow the instructions under "how to create a case").

#### **6. Additional Service Terms**

You can't elect to have Service apply to some but not all of the items of Equipment. Service doesn't include services and repairs that are made necessary due to any Excluded Circumstance. Service excludes the supply of postal and carrier rate changes and Consumable Supplies. If you replace any of your Covered Equipment during the Service Term, and the replacement Equipment qualifies for Services, and your Order for the replacement Equipment includes Services, PBI will automatically enroll you for maintenance coverage on the new Equipment at PBI's then current annual rates. If you acquire an attachment, or add a unit, to your Covered Equipment, PBI will provide coverage for each attachment or unit which PBI determine qualifies for coverage under the SLA and adjust your rate accordingly. If you choose not to continue coverage on the replacement Equipment, attachment or unit, you may cancel Service for the item with 30 days notice. If you cancel, any further maintenance or repair services on the Equipment, attachment or unit will be subject to PBI's current rates. Standard SLA will apply to rented Equipment at no additional charge.

#### **7. Internet Access Point**

The internet connectivity for the Equipment or Meter may use an internet access point provided by us. You may only use this access point for connectivity between the Equipment or Meter and the internet and for no other purpose. Neither PBI nor PBGFS will be responsible for any costs resulting from your use of the access point in violation of this restriction.

### **C. EQUIPMENT RENTAL AND METER SERVICES TERMS**

#### **1. Equipment Rental and Meter Services**

This Equipment Rental and Meter Services Section applies to you whenever you rent Equipment and whenever you obtain Meter Services from us.

(a) If you aren't leasing the Equipment and paying for it in your lease payment to PBGFS, PBI will invoice you the Equipment rental ("rental") and Meter Services fees listed on the Order. After the period listed on the Order (the "**Initial Term**"), PBI or PBGFS may increase the rental and/or Meter Services fees in accordance with the Master Agreement. When you receive notice of an increase, you may terminate your rental or Meter Services only as of the date the increase becomes effective.

(b) At the end of the Initial Term, unless prohibited by law, the rental term and Meter Services term will convert to successive month to month extensions. You may choose to cancel the month to month extensions at any time by giving us 30 days' prior written notice by creating a case at [pitneybowes.com/us/contact-us.html](http://pitneybowes.com/us/contact-us.html) (follow the instructions under "how to create a case"). Upon expiration of the term of the rental or Meter Services, you agree to return Equipment and Meters covered by the rental and Meter Services agreement in their original condition, reasonable wear and tear excepted. PBI reserves the right to recover or disable the Meter and terminate your use at any time if you are in violation of USPS regulations.

## **2. Postage**

You may transfer funds to The Pitney Bowes Bank, Inc. (the "Bank") for deposit into your Reserve Account that you maintain with the Bank (your "**Reserve Account**") or you may transfer funds to the United States Postal Service (the "**USPS**") through a lockbox bank (a "**Lockbox Bank**"). See the "USPS Acknowledgment of Deposit" below for more information. Until the end of the Initial Term, PBI may charge you a fee of up to \$15.00 for refilling your postage. After the Initial Term, PBI may increase postage refill fees upon 30 days prior written notice. If you participate in any PBI, PBGFS, or Bank postage advance programs (such as Purchase Power), PBI will advance payment on your behalf to the USPS, subject to repayment by you under the terms of the postage advance program and billed separately from your Meter Services fees.

## **3. Meter Repair or Replacement; Meter Care and Risk of Loss**

If the Meter malfunctions or fails due to reasons other than an Excluded Circumstance, PBI will repair or replace the Meter. You agree to take proper care of the Meter(s), as stated in this Agreement and any user documentation. You assume all risk of loss or damage to the Meter(s) while you have possession.

## **4. Terms of Use of Meter; Federal Regulations**

(a) You may use the Meter solely for the purpose of processing your mail, provided that you are authorized by the USPS to use the Meter, and that you comply with (i) this Agreement, (ii) any operator guide and (iii) all USPS regulations. You agree to use only attachments or printing devices authorized by us. You must receive our written consent before moving the Equipment or Meter to a different location. Federal regulations require that PBI own the Meter. Tampering with or misusing the Meter is a violation of federal law. Activities of the USPS, including the payment of refunds for postage by the USPS to clients, will be made in accordance with the current Domestic Mail Manual. If the Meter is used in any unlawful scheme, or isn't used for any consecutive 12 month period, or if you take the Meter or allow the Meter to be taken outside the United States without proper written permission of USPS Headquarters, or if you enter a series of unpaid or short-paid mail pieces and/or packages in the mail stream, or if you resell the postage pricing that PBI offers under this Agreement to any third party, or if you are in possession of a decertified system, or if you otherwise fail to abide by the postal regulations and this Agreement regarding care and use of the Meter, then this Agreement and any related Meter Services agreement may be revoked. You acknowledge that any use of a Meter that fraudulently deprives the USPS of revenue can cause you to be subject to civil and criminal penalties applicable to fraud and/or false claims against the United States. The submission of a false or fraudulent statement can result in imprisonment of up to 5 years and fines of up to \$10,000 (18 U.S.C. 1001) and a civil penalty of up to \$5,000 plus an assessment of twice the amount falsely claimed (3 U.S.C. 3802). The mailing of matter bearing a fraudulent postage meter imprint is an example of a violation of these statutes. You are responsible for immediately reporting

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(within 72 hours or less) the theft or loss of the Meter to us. Failure to comply with this notification provision in a timely manner may result in the denial of refund of any funds remaining on the Meter at the time of loss or theft. You understand that the rules and regulations regarding the use of this Meter as documented in the Domestic Mail Manual may be updated from time to time by the USPS and it is your obligation to comply with any rules and regulations regarding its use.

(b) You agree that you will not resell or attempt to resell the postage pricing that PBI offers you under this Agreement to any other party.

(c) USPS Privacy Act Statement: Your information will be used to facilitate the purchase of USPS postage and fulfill transactional reporting requirements for USPS postage systems. Collection is authorized by 39 U.S.C. 401, 403, and 404. Providing the information is voluntary, but if not provided, your transaction may not be processed. USPS does not disclose your information to third parties without your consent, except to facilitate the transaction, to act on your behalf or request, or as legally required. This includes the following limited circumstances: to a congressional office on your behalf; to financial entities regarding financial transaction issues; to a USPS auditor; to entities, including law enforcement, as required by law or in legal proceedings; and to contractors and other entities aiding us to fulfill the service (service providers). For more information regarding USPS privacy policies, visit [www.usps.com/privacypolicy](http://www.usps.com/privacypolicy).

## **5. Rate Updates and Soft-Guard® Program**

Your Meter or Equipment may require periodic rate updates that you will obtain under our Soft-Guard program. PBI will provide rate updates only if required due to a postal or carrier change in rate, service, ZIP Code™ or zone change. The Soft-Guard program doesn't cover any change in rates due to custom rate changes, new classes of carrier service, or a change in ZIP Code or zone due to equipment relocation. PBI won't be responsible for any losses arising out of or resulting from the failure of rating or software downloads to conform to published rates.

## **6. Collection of Information**

You authorize us to access and download information from your Meter or from your PC Postage account. PBI may disclose this information to the USPS or other authorized governmental entity. PBI won't share with any third parties (except the USPS or other governmental entity) individually identifiable information that PBI obtain about you in this manner unless required to by law or court order. PBI may elect to share de-identified aggregate data about our clients' postage usage with third parties.

## **7. Value Based Services**

Value based services are services the USPS provides, including e-Return Receipt and USPS Confirmation Services. Any fees the USPS charges for these services are your responsibility to pay for and are payable the same way that you pay for postage. The USPS is solely responsible for its services. PBI is not responsible for any malfunctions of any part of the communication link connecting the Meter with the USPS data system. The value based services provided by the USPS are provided without any warranty of any kind, either express or implied, including the warranty of merchantability or fitness for a particular purpose. PBI is not liable for any damages you may incur by reason of your use of the value based services provided by the USPS, including incidental, consequential, or punitive damages. PBI has the right to terminate the value based services if the USPS discontinues offering the service or you breach your obligations under this Agreement and fail to cure the breach within thirty days after you have been notified in writing.

## **D. USPS ACKNOWLEDGEMENT OF DEPOSIT**

### **1. Acknowledgement of Deposit**

This section of this Agreement provides you with the sections that the USPS requires PBI include in any agreement where PBI is providing Meter Services. The USPS requires that PBI use specific language. The “acknowledgement of deposit” terms are as follows:

- (a) In connection with your use of a Postage Evidencing System, you may transfer funds to the USPS through a Lockbox Bank for the purpose of prepayment of postage on Postage Evidencing Systems, generating evidence of postage (a “**Deposit**”), or you may transfer funds to the Bank for deposit into your Reserve Account.
- (b) To the extent you deposit funds in advance of the use of any evidence of postage, you may make Deposits in the Lockbox Bank account identified as “United States Postal Service CMRS-PB” or make deposits in your Reserve Account, in either case through electronic means, including Automated Clearinghouse Transfers. The USPS may, at its discretion, designate itself or a successor as recipient of Deposits made by you to the Lockbox Bank account described above.
- (c) Any deposit made by you in your Reserve Account is subject to the Reserve Account – Agreement and Disclosure Statement governing your Reserve Account.
- (d) Any Deposit made by you in the Lockbox Bank account shall be credited by the USPS only for the payment of evidence of postage. Such Deposits may be commingled with Deposits of other clients. You shall not receive or be entitled to any interest or other income earned on such Deposits.
- (e) The USPS will provide a refund to you for the remaining account balances of Deposits held by the USPS. These refunds are provided in accordance with the rules and regulations governing deposit of funds for evidence of postage, published in the CFR.
- (f) The Lockbox Bank, which shall collect funds on behalf of the USPS, shall provide PBI, on each business day, information as to the amount of each Deposit made to the USPS by you, so that PBI can update its records.
- (g) PBI may deposit funds on your behalf. The USPS will make no advances of funds to you. Any relationship concerning advances of funds is between you and PBI, PBGFS and/or the Bank.
- (h) You acknowledge that the terms of this Acknowledgement may be changed, modified, or revoked by the USPS, with appropriate notice.
- (i) Postal Regulations governing the deposit of funds are published in the CFR or its successor. You acknowledge that you shall be subject to all applicable rules, regulations, and orders of the USPS, including future changes to such rules, regulations, and orders, and such additional terms and conditions as may be determined in accordance with applicable law. The USPS rules, regulations, and orders shall prevail in the event of any conflict with any other terms and conditions applicable to any Deposit.

## **E. PURCHASE POWER TERMS**

### **1. Purchase Power Program**

- (a) The Purchase Power credit line is a product of the Bank and is not available to individuals for personal, family, or household purposes. In order to participate in the Purchase Power program (the



**“Program”**), you must provide the information described in paragraph (h) below. You will receive a set of more specific provisions for the Program within thirty days of the date of this Agreement.

(b) Your Purchase Power account (the **“Account”**) will be charged for the amount of postage, products, and services requested and the related fees, if applicable. Unless prohibited by law, you agree to pay the fees and charges of which the Bank has given you notice, including those relating to: (i) applicable transaction or overage fees; (ii) your failure to pay in a timely manner; (iii) your exceeding your credit line; and (iv) fees attributable to the return of any checks.

(c) You will receive a billing statement for each billing cycle in which you have activity in the Account. The Bank may deliver any statement electronically to the email address that is on file for you. Payments are due by the due date shown on your billing statement. You may pay the entire balance due or a portion of the balance, provided that you pay at least the minimum payment shown on the statement. In the event of a partial payment, you will be responsible for the unpaid balance.

(d) (i) By using the Program, you agree that whenever there is an unpaid balance outstanding on the Account which is not paid in full by the due date shown on your billing statement, the Bank will charge you, and you will pay, interest on the unpaid balance of the Account from time to time, for each day from the date the transaction is posted to the Account until the date the unpaid balance is paid in full, at a variable rate equal to the Annual Percentage Rate applicable to the Account from time to time. (ii) The Annual Percentage Rate applicable to the Account will be: the greater of (x) 22% and (y) the sum of the highest “Prime Rate” published in the “Money Rates” section of *The Wall Street Journal* on the last business day of the month and the margin set forth below (the sum of the margin and the Prime Rate is herein called the “Floating Rate”). The Annual Percentage Rate will be adjusted on a monthly basis based on any fluctuation in the Floating Rate, if applicable. Any change in the Annual Percentage Rate based on the calculation described in this section will become effective on the first day of your next billing cycle. (iii) The margin which will be added to the Prime Rate to determine the Floating Rate will be 14.75% (using the Prime Rate in effect as of December 31, 2019, the daily periodic rate would be .05342% and the corresponding annual percentage rate would be 19.50%). (iv) The Account balance that is subject to a finance charge each day will include (x) outstanding balances, minus any payments and credits received by the Bank on the Account that day, and (y) unpaid interest, fees, and other charges on the Account. (v) The Bank will charge a minimum finance charge of \$1.00 in any billing cycle if the finance charge as calculated above is less than \$1.00. (vi) Each payment that you make will be applied to reduce the outstanding balance of the Account and replenish your available credit line. (vii) The Bank may refuse to extend further credit if the amount of a requested charge plus your existing balance exceeds your credit limit.

(e) The Bank may at any time close or suspend the Account, and may refuse to allow further charges to the Account. Cancellation or suspension will not affect your obligation to pay any amounts you owe.

(f) The Bank can amend any of the provisions and terms related to the Program at any time by written notice to you (including by electronic notice via the email address that is then on file for you). You are consenting to electronic delivery of any amendments to the Program terms. Each time you use the Program, you are signifying your acceptance of the terms then in effect. An amendment becomes effective on the date stated in the notice and will apply to any outstanding balance on the Account. The Bank may terminate the Program at any time and will notify you in the event of any termination. Any outstanding obligation will survive termination of the Program.

(g) The Program and any advances are governed by and construed in accordance with the laws of the State of Utah and applicable federal law.

(h) USA PATRIOT Act - To help the government fight the funding of terrorism and money laundering activities, Federal law requires financial institutions to obtain, verify and record information that identifies each person who opens an account. Accordingly, in order to activate the Account, the Bank asks that you

Option A - NASPO ValuePoint Lease to Own Terms and Conditions - Michigan (Version 3/22)

agree to provide identifying information, including your address and taxpayer identification number. The Bank may also ask for additional identifying information, where appropriate, including asking that your representative who is opening the Account provide his/her name, address, date of birth, driver's license and/or other documents and information that will allow the Bank to identify him/her. You agree to provide all such requested identifying information.

## **F. PRODUCT SPECIFIC TERMS**

### **1. Software**

If you are acquiring an on-premise software license or on-demand subscription services, additional terms apply which are attached to the Participating Addendum.

### **2. DI2000 Inserting System Terms**

Certain provisions which apply when you purchase, lease or rent a DI2000 inserting system and when you purchase a service plan for it are set forth at [pitneybowes.com/us/state-and-local-government-solutions/states.htmlhttp://www.pitneybowes.com/us/di2000-terms.html](http://www.pitneybowes.com/us/state-and-local-government-solutions/states.htmlhttp://www.pitneybowes.com/us/di2000-terms.html) and are incorporated by reference. Those provisions govern to the extent that they are inconsistent with the other terms of this Agreement, the PA or PA Ex 1.

### **3. PBBackup and PC-Backup Service Terms**

Certain provisions which apply when you utilize the PBBackup or PC-Backup services are set forth at [pitneybowes.com/us/pbbackup-service-and-pcbackup-service-terms.html](http://pitneybowes.com/us/pbbackup-service-and-pcbackup-service-terms.html) and are incorporated by reference.

### **4. Pitney Bowes Intelligent Locker Solutions**

You must keep the Equipment insured against Loss for its full replacement value under a comprehensive policy of Insurance. The Pitney Bowes Intelligent Locker Solutions may include a statement of work.

### **5. AddressRight® Printers**

Certain provisions which apply when you purchase, lease or rent an AddressRight Printer are set forth at [pitneybowes.com/us/addressrightprinter-terms.html](http://pitneybowes.com/us/addressrightprinter-terms.html) and are incorporated by reference. Those provisions govern to the extent that they are inconsistent with the other terms of this Agreement, the PA or PA Ex 1.

### **6. DM Infinity**

In no event shall the term for a DM Infinity meter agreement go beyond June 30, 2026. In addition, in no event shall a new DM Infinity meter be placed (installed) after June 30, 2024.

By entering into this agreement you acknowledge the metering function as well as support for the DM Infinity meter under this agreement will end on June 30, 2026 due to USPS regulations. This means that the metering device will stop functioning on June 30, 2026 and you will not be able to meter your mail. Mail processed on a DM Infinity meter after June 30, 2026 will not be accepted by the USPS.

## **7. ADDITIONAL PROVISIONS TO THE PRODUCT SPECIFIC TERMS**

- a. Notwithstanding any terms referenced and/or incorporated by reference in sections F.2 through F.6 above.
  - i. fees in any Order will be fixed at our pricing in effect at the time the Order is issued, for the period for which you sign up for Services in the Order.
  - ii. any service or subscription in an Order begins and ends with the Initial Lease Term and does not automatically renew with a Renewal Lease Term unless you order (or

have ordered) additional service or subscription(s) for the applicable Renewal Lease Term(s).

- iii. any provision indicating your sole remedies is ineffective.
- iv. any provision regarding risk of loss and regarding delivery of Equipment is ineffective.
- v. the rate applicable to Overage(s) will be the rate in effect when the Overage first began.
- vi. You will only be automatically enrolled for maintenance service for replacement Equipment and/or components if your Order for same signs you up for such maintenance, and you may cancel such maintenance with 30 days' notice; and
- vii. You will not be bound by any terms requiring indemnification by the State to third-parties; consent to arbitration; provisions regarding audits; provisions regarding remote access to State systems; agreeing to be bound by the laws of another state; or to waive any claims or defenses, including governmental or sovereign immunity contained in any of the product-specific end user license agreements (EULA(s)) or any other documents, policies, or terms located in links referenced herein.

IN WITNESS WHEREOF, the Parties have executed this Participating Addendum.

**PARTICIPATING ENTITY**

**Pitney Bowes Global Financial Services LLC**

Signature:	Signature:
Name:	Name:
Title:	Title:
Date:	Date:

## SCHEDULE I.2 TO STATE OF MICHIGAN PARTICIPATING ADDENDUM

### OPTION B – NASPO VALUEPOINT FAIR MARKET VALUE RENTAL TERMS AND CONDITIONS

Pitney Bowes Global Financial Services LLC (as defined below) will serve as a sub-contractor pursuant to the Master Agreement awarded under Solicitation BPM003137 and will be the Lessor under any Fair Market Value Rental. PBGFS does not warrant, service or otherwise support the equipment. Those services are provided by Pitney Bowes Inc. (PBI). Due to USPS regulations, only PBI can own a Meter. This document contains the lease terms that are applicable to any Order issued under the Master Agreement for a Fair Market Value Rental. This Option B may not be used for the DI2000 Inserting System or **Pitney Bowes Intelligent Locker Solutions**.

The pricing plan for the NASPO ValuePoint Fair Market Value Rental Terms and Conditions is as follows:

#### Monthly Rate Factors:

<u>Term:</u>	<u>Rate:</u>
24	.0514
36	.0377
48	.0309
60	.0270

Thank you for choosing Pitney Bowes products and services. These Terms, the executed order (the “**Order**”), your State’s Participating Addendum, including Schedules and Exhibits thereto and the NASPO ValuePoint Master Agreement and any Schedules and exhibits attached thereto, make up this Agreement. Please read this Agreement carefully.

Let’s start with a few definitions that should help you better understand your agreement. “**PBI**” means Pitney Bowes Inc. “**Pitney Bowes**” means PBI and its subsidiaries. “**You**” or “**your**” refers to the entity identified on the Order. “**Master Agreement**” means NASPO ValuePoint Master Agreement awarded under Solicitation BPM003137 for Mailing Equipment, Supplies and Maintenance contract administered by the State of Arizona and shall consist of: the solicitation as amended, any requests for clarifications and/or best and final offers, the proposal submitted by us, our responses to any requests for clarifications and/or our best and final offer. “**State Participating Addendum**” means the bilateral agreement executed by PBI and your participating state incorporating the Master Agreement. “**Meter**” means any postage meter supplied by PBI under the Order, including (i) in the case of a Connect+®, a SendPro® P series or a SendPro C series mailing system, the postal security device that accounts for and enables postage to be purchased and printed (“**PSD**”), and (ii) in the case of all other mailing systems, the PSD, the user interface or keyboard and display and the print engine. “**Meter Services**” means: access to the PSD to download, account for, and enable printing of postage within a PBI Postage Evidencing System as defined in Title 39, Part 501 of the Code of Federal Regulations (“**CFR**”); USPS mandated processes associated with the PSD, including registration, usage reporting and withdrawal; repair or replacement of the PSD as described in Section 27; and the Soft-Guard Program outlined in Section 29. “**Equipment**” means the equipment listed on the Order, excluding any Meter or standalone software. “**Lease**” means Lease terms and conditions set out in Sections A.1 through A.25. “**PA Ex 1**” means Exhibit 1 to the State Participating Addendum.

The provisions included in these Terms consist of: (i) Lease Terms; (ii) a Service Level Agreement (“SLA”); (iii) Equipment Rental and Meter Services Terms; (iv) an Acknowledgement of Deposit required by the United States Postal Service in any transaction involving a Meter; (v) Purchase Power® Terms for a limited purpose credit line that may be available to you; and (vi) provisions relating to specific products; the Master Agreement, the Participating Addendum, Participating Addendum Exhibit 1 and all Schedules and Exhibits thereto.

## **A. LEASE TERMS**

### **1. Lease of Equipment; Provider of Leasing Services**

If you are leasing Equipment, these Lease terms apply. PBI is the manufacturer of the Equipment. Pitney Bowes Global Financial Services LLC, a wholly-owned subsidiary of PBI, or one of its subsidiaries (“PBGFS”), provides you with the leasing services and payment processing and related services. Except as otherwise provided herein, the duration or term of this Lease (“Lease Term”) will consist of an Initial Lease Term, which will end with your current fiscal year and “**Renewal Lease Terms**”, each of which is a subsequent fiscal year for which funds have been appropriated to make Lease Payments under the Lease. At the end of the Initial Term, and at the end of each Renewal Lease Term, the Lease Term will be automatically extended upon the successive appropriation by your legislative body of amounts sufficient to pay Lease Payments during your next succeeding fiscal year, or Renewal Lease Term, until all Lease Payments have been paid up to the number of months, as stated in the Order, unless the Lease Term ends earlier due to (i) termination at PBGFS’s option upon the occurrence of an event of default, provided that all payment obligations under this Lease for the current fiscal year for which a State appropriation has been made survive termination of this lease for such default, or (ii) termination for non-appropriation, termination for convenience under Section 8 or 9 below. For a New Lease, the Initial Lease Term begins on the date the Equipment is shipped if PBI doesn’t install the Equipment, and the date of installation if PBI installs the Equipment (“Install Equipment”). If you are entering into a Lease to enhance, upgrade or replace Equipment you are leasing from PBGFS, and if all Equipment has shipped and all Install Equipment has been installed, then your Lease Term will commence to align with your current periodic invoice date. By entering into the Lease, you confirm your intention to continue to lease the Equipment beyond the Initial Lease Term. **You may not cancel this Lease for any reason, except as expressly set forth in Section 8 and 9 below and all payments directly for lease of Equipment, (“Lease Payments”) are unconditional, except as provided herein.** You understand that PBGFS owns the Equipment. PBI owns any Meter as USPS regulations require. Except as stated in Section 3, you don’t have the right to become the owner of the Equipment at the end of the Lease Term.

### **2. Payment Terms**

PBGFS will invoice you quarterly in arrears for Lease Payments. If permitted in the Participating Addendum Exhibit 1, in addition to Lease Payments, PBGFS will invoice you quarterly in arrears for all additional payments on the Order, unless the Order says otherwise (each such payment is a “**Periodic Payment**”). You will make each Periodic Payment in accordance with the payment provisions of PA Ex 1. Your Periodic Payment may include, amounts carried over from a previous lease, software license and maintenance fees and other charges, if set forth in an Order. Any Meter Services fees, SLA fees and subscription fees (collectively “**PBI Payments**”) will be included with your Periodic Payment and begin with the start of the Lease Term. After the Lease Term, your Periodic Payment will increase if your PBI Payments increase. Any software license and maintenance fees and other charges, and any Meter Service fees, SLA fees, and subscription Fees, and any other payment that is not a Lease Payment, are not fees or payments directly for lease of Equipment and are not unconditional

Pursuant to 1984 PA 279, MCL 17.51-17.57, the State will pay PBGFS a charge on any Lease Payment, which remains unpaid after the date such Lease Payment is due. Lease Payments consist of principal

Option B - NASPO ValuePoint FMV Rental Terms and Conditions – Michigan (Version 3/23)

and interest portions related solely to use and possession of Equipment PBGFS understands and intends, and the State understands and intends that the State's obligation to pay Lease Payments under this Lease will constitute a current expense of the State of Michigan and will not in any way be construed to be a debt or general obligation of the State of Michigan in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by the State, including, but not limited to, Const 1963, art 9, §§12, 17, nor will anything contained herein or in a Lease constitute a pledge of the general tax revenues, credit, funds or monies of the State.

### **3. End of Lease Options**

During the 90 days before the final Renewal Lease Term of your Lease ends, you may, unless you are in default: (i) enter into a new lease or an amended lease with us; (ii) purchase the Equipment "as is, where is" for its fair market value; or (iii) return the Equipment and Meter in their original condition, reasonable wear and tear excepted, and pay us our then applicable processing fee (including any equipment return fee). If you return the Equipment and Meter, you will, as specified by us, either properly pack and return them to us in the return box and with the shipping label provided by us or furnish them to a service carrier specified by us to pick up and ship them to us. If you don't do one of the things listed in clause (i), (ii) or (iii) above, you will be deemed to have agreed to enter into successive month to month extensions of the term of this Lease, unless prohibited by law. You may choose to cancel the automatic extensions at any time by giving us 120 days' written notice by creating a case at [pitneybowes.com/us/contact-us.html](http://pitneybowes.com/us/contact-us.html) (follow the instructions under "how to create a case"). Upon cancellation, you agree to either return all items as provided in this Section 3 or purchase the Equipment.

### **4. WARRANTY AND LIMITATION OF LIABILITY**

**EACH OF PBGFS AND THE BANK (AS HEREINAFTER DEFINED) MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR FREEDOM FROM INTERFERENCE OR INFRINGEMENT, AND PBGFS AND THE BANK AREN'T LIABLE FOR ANY LOSS, DAMAGE (INCLUDING INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES) OR EXPENSE CAUSED DIRECTLY OR INDIRECTLY BY THE EQUIPMENT.**

### **5. Equipment Obligations**

You will keep the Equipment free from liens and in good condition and working order. We may inspect the Equipment and related maintenance records. You may not move the Equipment from the location specified on the Order without our prior written consent.

### **6. Security Interest**

You agree to cooperate in executing any necessary or appropriate Financing Statement(s) indicating our obligation with respect to the Lease.

### **7. Other Lease Terms**

- (a) If more than one lessee is named in this Lease, liability is joint and several.
- (b) You may not assign or sublet the Equipment, the Meter or this Agreement without our prior written consent. Any assignment without our consent is void. We may sell or assign all or part of this Lease or the Equipment, but it will not affect your rights or obligations.
- (c) We will provide you with a welcome letter by email.

(d) All applicable taxes required to be collected by us will be shown on the invoice.

## **8. NON-APPROPRIATION**

If sufficient funds to enable you to continue payment on the lease (Lease Payments) are not appropriated, negatively appropriated, if there is a budget shortfall, or funds are otherwise not made available for a subsequent fiscal year, you may terminate the Lease effective at the end of the last fiscal year for which funds have been appropriated or otherwise made available for the Lease. You must give PBGFS notice as soon as practical, but failure to provide such notice does not impact your right to terminate the Lease under this section.

## **9. EARLY TERMINATION**

If you cancel or terminate this Lease prior to expiration of the Lease Term (other than for non-appropriations), you shall pay a termination charge equal to three monthly rental payments.

The foregoing paragraph shall supersede Section 12(a)(ii) of these Terms.

## **10. PBGFS MAKES NO REPRESENTATION OR WARRANTY AS TO ANY THIRD PARTY EQUIPMENT. WE AGREE TO PASS THROUGH TO YOU ALL THIRD PARTY EQUIPMENT WARRANTIES TO THE EXTENT PERMITTED.**

## **11. Limitation of Liability**

**PBGFS's TOTAL LIABILITY (INCLUDING ANY LIABILITY OF ITS SUPPLIERS) IS LIMITED TO THE LEASE PAYMENTS PAID BY YOU FOR THE APPLICABLE EQUIPMENT. NEITHER PBGFS NOR ITS SUPPLIERS IS LIABLE FOR ANY: (I) DAMAGE YOU MAY INCUR BY REASON OF YOUR MISUSE OR NEGLIGENT USE OF THE EQUIPMENT OR YOUR NEGLIGENT ACTS OR OMISSIONS OR (II) INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY NATURE WHATSOEVER, INCLUDING COMMERCIAL LOSS, OR LOST PROFITS, DATA OR GOODWILL, FOR ANY MATTER RELATING TO THIS AGREEMENT.**

## **12. Default and Remedies**

(a) If you fail to make any lease payment with respect to leased Equipment within 14 days after we give you written notice of an overdue payment, or you breach any other obligation under this Agreement with PBGFS or with respect to Meter Rentals and such breach continues for 30 days after we give you notice or you become insolvent or file for bankruptcy, you will be in default and PBGFS or PBI may, as applicable:

- (i) cancel the Lease;
- (ii) require you to pay to PBGFS immediately all Lease Payments payable under the Lease for the remainder of the Initial Lease Term or Renewal Lease Term, as applicable and provided any previous appropriation for said purpose has not been reversed;
- (iii) disable the Meter;
- (iv) require you to return the Equipment and Meter, and delete or remove software; and deny you access to software;

- (v) if you don't return the Equipment, require you to immediately pay to us an amount equal to the value of the Equipment, as determined by us;
- (vi) charge you a check return fee for payments made by you with insufficient funds; and
- (vii) pursue any other remedy, including repossessing the Equipment and Meter without notice to you. To the extent permitted by law, you waive any notice of our repossession or disposition of the Equipment or Meter. By repossessing the Equipment or Meter, we aren't waiving our right to collect the balance due.

(b) We may suspend any services during any period that your account is more than thirty days past due.

### **13. Taxes**

The parties contemplate that the Equipment will be used for governmental purposes and that the Equipment will therefore be exempt from all property taxes. If the use, possession or acquisition of any Equipment is nevertheless determined to be subject to taxation, you will pay when due all taxes and governmental charges lawfully assessed or levied against or with respect to such Equipment. In addition, it is your intention and our intention that the interest portion of the Lease Payments you make be and remain free from federal income taxation. You will not intentionally perform or fail to perform any act or enter into any agreement or use or permit the use of the Equipment or any portion thereof in a manner that will have the effect of terminating the exemption from federal income taxation of the interest portion of the Lease payments.

### **14. Embedded Software; Applications**

(a) Our Equipment may contain embedded software. For embedded software, you agree that: (i) PBI and its licensors own the copyrights and other intellectual property to it; (ii) you are licensed only to use it with our Equipment in which it resides; (iii) you won't copy, modify, de-compile, or attempt to unbundle, reverse engineer or create derivative works of it; and (iv) you won't distribute or disclose it (or any portion) to anyone. The embedded software may contain third party software which is subject to any terms accompanying it. Technical support for embedded software will be given according to the SLA covering the Equipment with the embedded software.

(b) Certain products and services may provide you an opportunity to access applications provided by us or a third party. Each application you access will have its own terms and conditions applicable to your use of that application located within it, and by using the application you agree to those terms and conditions.

### **15. Miscellaneous**

(a) We will use your information in accordance with Exhibit 1 and our [Privacy Statement](#). In the event of a conflict between our Privacy Statement and Sections 30, 31 and 32 of Exhibit 1, Exhibit 1 shall govern.

(b) You agree to use the Equipment and Meter only for business, commercial, or governmental purposes, and not for personal, family, or household purposes.

(c) Except as required by Executive Order or Directive, or Legislative action, you may not assign this Agreement without our prior written consent and you will provide us with notice of any such assignment as soon as practical

(d) Lease Payments aren't subject to setoff or reduction.



- (e) This Agreement can only be changed if we both agree to do so in writing. You may use an Order to offer to obtain equipment but none of its provisions will modify or supersede these provisions unless we expressly agree in writing. If any provision in this Lease is found to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions won't be affected.
- (f) Our respective rights and obligations under Sections 11 (Limitation of Liability), 12 (Default and Remedies) and 13 (Taxes) will survive termination of this Agreement.
- (g) We may deliver any notice and other communication to you under this Lease by email to the email address that we have on file for you. You agree to the delivery of these notices and other communications by email. We may call you at any number you give to us.
- (h) You agree to comply with all applicable export control laws and regulations.

**16. Conflicts and Ethics.** PBGFS will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Lease; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Lease; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for PBGFS, any consideration contingent upon the award of the Lease. PBGFS must immediately notify the State of any violation or potential violation of these standards. This Section applies to PBGFS, any parent, affiliate, or subsidiary organization of PBGFS, and any subcontractor.

**17. Compliance with Laws.** The parties must comply with all federal, state and local laws, rules and regulations applicable to the Lease.

**18. Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, and [Executive Directive 2019-09](#). PBGFS and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex (as defined in Executive Directive 2019-09), height, weight, marital status, partisan considerations, any mental or physical disability, or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. Breach of this covenant is a material breach of this Contract.

**19. Unfair Labor Practice.** Under MCL 423.324, the State may void any contract or Lease with a PBGFS or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.

**20. Governing Law.** This Lease is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Lease are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in the Michigan Court of Claims. Complaints against the State must be initiated in Ingham County, Michigan. PBGFS waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. PBGFS must appoint an agent in Michigan to receive service of process.

**21. Non-Exclusivity.** Nothing contained in this Lease is intended nor is to be construed as creating any requirements contract with PBGFS, nor does it provide PBGFS with a right of first refusal for any future work. This Lease does not restrict the State or its agencies from acquiring similar, equal, or like services or Equipment from other sources.

**22. Limitation of Liability and Disclaimer of Damages. IN NO EVENT WILL THE STATE'S AGGREGATE LIABILITY TO PBGFS UNDER THIS LEASE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE MAXIMUM AMOUNT OF FEES PAYABLE UNDER THE APPLICABLE ORDER.** The State shall not be liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.

**23. Records Maintenance, Inspection, Examination, and Audit.** Pursuant to MCL 18.1470, the State or its designee may audit PBGFS's records to verify compliance with this Lease. PBGFS must retain and provide to the State or its designee and the auditor general upon request, all financial and accounting records related to the Lease through the Lease Term of the Lease and for 4 years after the latter of termination, expiration, or final payment under this Contract or any extension ("**Audit Period**"). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, PBGFS must retain the records until all issues are resolved.

Within 10 calendar days of providing notice, the State and its authorized representatives or designees have the right to enter and inspect PBGFS's premises or any other places where services are being performed, and examine, copy, and audit all records related to this Lease. PBGFS must cooperate and provide reasonable assistance. If financial errors are revealed, the amount in error must be reflected as a credit or debit on subsequent invoices until the amount is paid or refunded. Any remaining balance at the end of the Lease Term must be paid or refunded within 45 calendar days. This Section applies to PBGFS, any parent, affiliate, or subsidiary organization of PBGFS, and any subcontractor that performs services or provides Equipment in connection with this Lease.

**24.** PBGFS represents that it is neither currently engaged in nor will engage in the boycott of a person based in or doing business with a strategic partner as described in 22 USC 8601 to 8606;

**25. Waiver.** Failure to enforce any provision of this Lease will not constitute a waiver.

## **B. SERVICE LEVEL AGREEMENT**

### **1. Applicability of SLA**

This SLA section applies to you if an Order contains a request to provide service for any Equipment PBGFS leases, or PBI rents or sells on the Order, excluding Equipment with charges based on volume of use ("**Usage-based Equipment**") (the covered equipment is called "**Covered Equipment**"). PBI provides the warranties set forth in the Participating Addendum and the Master Agreement.

### **2. Service Level Options**

(a) (i) If you sign up for **Standard SLA** on the Order, PBI will provide at its option either repair or replacement services for the Covered Equipment during the Initial Service Term or any Renewal Service Term (each term as defined in Section 21) (the "**Service Term**"). You are also entitled to: (x) replacement printheads for Covered Equipment without additional charge, except for printheads which need to be replaced as a result of any Excluded Circumstance, and except for integrated printhead/ink cartridges; and (y) two preventative maintenance service calls per calendar year. PBI will notify you when preventative maintenance is due or you can request preventative maintenance service. If your Covered Equipment needs repair, PBI may provide repair by remote access, diagnostics and service and/or by on-

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site repair service. Repair service is provided only for damage resulting from normal wear and tear. Repair service may include the use of new, reconditioned, or remanufactured parts and assemblies. PBI will provide parts or assemblies for discontinued equipment (or equipment not marketed as new) only if available. If PBI deems it necessary, PBI will dispatch a service technician to arrive at your location for on-site service. You won't incur hourly charges unless service is performed outside Normal Working Hours, which will be done only with your consent. **"Normal Working Hours"** means 8 a.m. – 5 p.m., Monday – Friday, excluding PBI-observed U.S. holidays, in the time zone where the Equipment or other items are located. There is no warranty for Excluded Circumstances. **"Excluded Circumstance"** is a circumstance outside of PBI's control, including an accident, your negligent or reckless use of the equipment, use of the equipment which exceeds our recommendations or in a way not authorized by this Agreement or any operator guide, use of the equipment in an environment with unsuitable humidity, line voltage, damage in transit, software virus not solely caused by us, loss of data, loss or fluctuation of power, fire, flood or other natural causes, and other external forces beyond our control, servicing of the equipment by someone other than us, failure to use required software updates, use of the equipment with any system where PBI has told you that PBI will no longer provide support or that PBI has advised you is no longer compatible, or use of third party supplies (such as ink), hardware or software that results in (i) damage to equipment (including damage to printheads), (ii) poor indicia, text or image print quality, (iii) indicia readability failures or (iv) a failure to print indicia, text or images.

(ii) If PBI determines that replacement of Covered Equipment is necessary, PBI will, at no additional cost to you, promptly ship new, reconditioned, or remanufactured equipment of the same or a functionally equivalent model to replace the affected Covered Equipment. Unless PBI instructs you otherwise, within five days of receiving the replacement equipment, you must pack the Covered Equipment to be replaced in the shipping carton that contained the replacement equipment, place the pre-paid return address label on the carton, and return it to PBI. You are responsible for the Covered Equipment until PBI receives it.

(b) The print engine(s), print engine components, structural components and printed circuit board assemblies supplied with or within the PBI Equipment may be reclaimed, reconditioned or remanufactured. These items are warranted to perform according to the same standards as the equivalent new item.

(c) The warranty doesn't cover ink, integrated printhead/ink cartridges, ink rollers, toner and drum cartridges, ribbons and similar items ("**Consumable Supplies**").

(d) **PBI MAKES NO REPRESENTATION OR WARRANTY AS TO ANY THIRD PARTY EQUIPMENT. WE AGREE TO PASS THROUGH TO YOU ALL THIRD PARTY EQUIPMENT WARRANTIES TO THE EXTENT PERMITTED.**

(e) **YOUR SOLE REMEDY FOR A WARRANTY CLAIM IS TO HAVE US REPAIR OR REPLACE THE PBI EQUIPMENT OR, IN THE CASE OF DEFECTIVE SERVICE, REPERFORM THE SERVICE.**

### **3. Service Term**

PBI will provide you with Service, as set forth and for the duration stated in the applicable Order. PBI reserves the right not to renew your SLA for any reason.

### **4. SLA Fees**

You will pay the SLA fees) as identified in the Order, subject to our right to terminate the Lease and your right to terminate the Lease for the applicable Equipment or to terminate Services as set forth in PA Ex 1. SLA fees in any Order will be fixed at our pricing in effect at the time the Order is issued, for the period for

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which you sign up for Services in the Order. We may increase the SLA fees after the Initial Service Term, and any increases will be reflected on your invoice and shall be in accordance with the terms of the Master Agreement. If you receive service for repairs caused by any Excluded Circumstance, PBI will charge you for the service at PBI's current hourly rates and for any required parts. If you exceed the cycle volume of your Equipment specified on the Order, PBI may bill you for the additional cycles over the specified cycle volume (the additional cycles are called the "Overage"). The charge will be determined by reference to the rate in effect at the time that that an Overage first began. Upon request, you will provide the cycle volume to us. If you do not provide the cycle volume to us, PBI will estimate the cycle volume and send an invoice to you for any Overage based on our estimate. If, in the prior quarter, PBI estimated cycle volume and later receive actual cycle volume, then PBI will make adjustments based on actual usage on your next invoice.

## **5. Service Changes**

PBI may modify its Service by giving written notice to you (a "**Service Change Notice**"), which will state whether the change is material. After receiving a Service Change Notice, if the change is material, you may terminate Service by creating a case at [pitneybowes.com/us/contact-us.html](http://pitneybowes.com/us/contact-us.html) (follow the instructions under "how to create a case").

## **6. Additional Service Terms**

You can't elect to have Service apply to some but not all of the items of Equipment. Service doesn't include services and repairs that are made necessary due to any Excluded Circumstance. Service excludes the supply of postal and carrier rate changes and Consumable Supplies. If you replace any of your Covered Equipment during the Service Term, and the replacement Equipment qualifies for Services, and your Order for the replacement Equipment includes Services, PBI will automatically enroll you for maintenance coverage on the new Equipment at PBI's then current annual rates. If you acquire an attachment, or add a unit, to your Covered Equipment, PBI will provide coverage for each attachment or unit which PBI determine qualifies for coverage under the SLA and adjust your rate accordingly. If you choose not to continue coverage on the replacement Equipment, attachment or unit, you may cancel Service for the item with 30 days notice. If you cancel, any further maintenance or repair services on the Equipment, attachment or unit will be subject to PBI's current rates. Standard SLA will apply to rented Equipment at no additional charge.

## **7. Internet Access Point**

The internet connectivity for the Equipment or Meter may use an internet access point provided by us. You may only use this access point for connectivity between the Equipment or Meter and the internet and for no other purpose. Neither PBI nor PBGFS will be responsible for any costs resulting from your use of the access point in violation of this restriction.

## **C. EQUIPMENT RENTAL AND METER SERVICES TERMS**

### **1. Equipment Rental and Meter Services**

This Equipment Rental and Meter Services Section applies to you whenever you rent Equipment and whenever you obtain Meter Services from us.

(a) If you aren't leasing the Equipment and paying for it in your lease payment to PBGFS, PBI will invoice you the Equipment rental ("rental") and Meter Services fees listed on the Order. After the period listed on the Order (the "**Initial Term**"), PBI or PBGFS may increase the rental and/or Meter Services fees

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in accordance with the Master Agreement. When you receive notice of an increase, you may terminate your rental or Meter Services only as of the date the increase becomes effective.

(b) At the end of the Initial Term, unless prohibited by law, the rental term and Meter Services term will convert to successive month to month extensions. You may choose to cancel the month to month extensions at any time by giving us 30 days' prior written notice by creating a case at [pitneybowes.com/us/contact-us.html](http://pitneybowes.com/us/contact-us.html) (follow the instructions under "how to create a case"). Upon expiration of the term of the rental or Meter Services, you agree to return Equipment and Meters covered by the rental and Meter Services agreement in their original condition, reasonable wear and tear excepted. PBI reserves the right to recover or disable the Meter and terminate your use at any time if you are in violation of USPS regulations.

## **2. Postage**

You may transfer funds to The Pitney Bowes Bank, Inc. (the "Bank") for deposit into your Reserve Account that you maintain with the Bank (your "**Reserve Account**") or you may transfer funds to the United States Postal Service (the "**USPS**") through a lockbox bank (a "**Lockbox Bank**"). See the "USPS Acknowledgment of Deposit" below for more information. Until the end of the Initial Term, PBI may charge you a fee of up to \$15.00 for refilling your postage. After the Initial Term, PBI may increase postage refill fees upon 30 days prior written notice. If you participate in any PBI, PBGFS, or Bank postage advance programs (such as Purchase Power), PBI will advance payment on your behalf to the USPS, subject to repayment by you under the terms of the postage advance program and billed separately from your Meter Services fees.

## **3. Meter Repair or Replacement; Meter Care and Risk of Loss**

If the Meter malfunctions or fails due to reasons other than an Excluded Circumstance, PBI will repair or replace the Meter. You agree to take proper care of the Meter(s), as stated in this Agreement and any user documentation. You assume all risk of loss or damage to the Meter(s) while you have possession.

## **4. Terms of Use of Meter; Federal Regulations**

(a) You may use the Meter solely for the purpose of processing your mail, provided that you are authorized by the USPS to use the Meter, and that you comply with (i) this Agreement, (ii) any operator guide and (iii) all USPS regulations. You agree to use only attachments or printing devices authorized by us. You must receive our written consent before moving the Equipment or Meter to a different location. Federal regulations require that PBI own the Meter. Tampering with or misusing the Meter is a violation of federal law. Activities of the USPS, including the payment of refunds for postage by the USPS to clients, will be made in accordance with the current Domestic Mail Manual. If the Meter is used in any unlawful scheme, or isn't used for any consecutive 12 month period, or if you take the Meter or allow the Meter to be taken outside the United States without proper written permission of USPS Headquarters, or if you enter a series of unpaid or short-paid mail pieces and/or packages in the mail stream, or if you resell the postage pricing that PBI offers under this Agreement to any third party, or if you are in possession of a decertified system, or if you otherwise fail to abide by the postal regulations and this Agreement regarding care and use of the Meter, then this Agreement and any related Meter Services agreement may be revoked. You acknowledge that any use of a Meter that fraudulently deprives the USPS of revenue can cause you to be subject to civil and criminal penalties applicable to fraud and/or false claims against the United States. The submission of a false or fraudulent statement can result in imprisonment of up to 5 years and fines of up to \$10,000 (18 U.S.C. 1001) and a civil penalty of up to \$5,000 plus an assessment of twice the amount falsely claimed (3 U.S.C. 3802). The mailing of matter bearing a fraudulent postage meter imprint is an example of a violation of these statutes. You are responsible for immediately reporting (within 72 hours or less) the theft or loss of the Meter to us. Failure to comply with this notification

provision in a timely manner may result in the denial of refund of any funds remaining on the Meter at the time of loss or theft. You understand that the rules and regulations regarding the use of this Meter as documented in the Domestic Mail Manual may be updated from time to time by the USPS and it is your obligation to comply with any rules and regulations regarding its use.

(b) You agree that you will not resell or attempt to resell the postage pricing that PBI offers you under this Agreement to any other party.

(c) USPS Privacy Act Statement: Your information will be used to facilitate the purchase of USPS postage and fulfill transactional reporting requirements for USPS postage systems. Collection is authorized by 39 U.S.C. 401, 403, and 404. Providing the information is voluntary, but if not provided, your transaction may not be processed. USPS does not disclose your information to third parties without your consent, except to facilitate the transaction, to act on your behalf or request, or as legally required. This includes the following limited circumstances: to a congressional office on your behalf; to financial entities regarding financial transaction issues; to a USPS auditor; to entities, including law enforcement, as required by law or in legal proceedings; and to contractors and other entities aiding us to fulfill the service (service providers). For more information regarding USPS privacy policies, visit [www.usps.com/privacypolicy](http://www.usps.com/privacypolicy).

## **5. Rate Updates and Soft-Guard® Program**

Your Meter or Equipment may require periodic rate updates that you will obtain under our Soft-Guard program. PBI will provide rate updates only if required due to a postal or carrier change in rate, service, ZIP Code™ or zone change. The Soft-Guard program doesn't cover any change in rates due to custom rate changes, new classes of carrier service, or a change in ZIP Code or zone due to equipment relocation. PBI won't be responsible for any losses arising out of or resulting from the failure of rating or software downloads to conform to published rates.

## **6. Collection of Information**

You authorize us to access and download information from your Meter or from your PC Postage account. PBI may disclose this information to the USPS or other authorized governmental entity. PBI won't share with any third parties (except the USPS or other governmental entity) individually identifiable information that PBI obtain about you in this manner unless required to by law or court order. PBI may elect to share de-identified aggregate data about our clients' postage usage with third parties.

## **7. Value Based Services**

Value based services are services the USPS provides, including e-Return Receipt and USPS Confirmation Services. Any fees the USPS charges for these services are your responsibility to pay for and are payable the same way that you pay for postage. The USPS is solely responsible for its services. PBI is not responsible for any malfunctions of any part of the communication link connecting the Meter with the USPS data system. The value based services provided by the USPS are provided without any warranty of any kind, either express or implied, including the warranty of merchantability or fitness for a particular purpose. PBI is not liable for any damages you may incur by reason of your use of the value based services provided by the USPS, including incidental, consequential, or punitive damages. PBI has the right to terminate the value based services if the USPS discontinues offering the service or you breach your obligations under this Agreement and fail to cure the breach within thirty days after you have been notified in writing.

## **D. USPS ACKNOWLEDGEMENT OF DEPOSIT**

### **1. Acknowledgement of Deposit**

This section of this Agreement provides you with the sections that the USPS requires PBI include in any agreement where PBI is providing Meter Services. The USPS requires that PBI use specific language. The “acknowledgement of deposit” terms are as follows:

- (a) In connection with your use of a Postage Evidencing System, you may transfer funds to the USPS through a Lockbox Bank for the purpose of prepayment of postage on Postage Evidencing Systems, generating evidence of postage (a “**Deposit**”), or you may transfer funds to the Bank for deposit into your Reserve Account.
- (b) To the extent you deposit funds in advance of the use of any evidence of postage, you may make Deposits in the Lockbox Bank account identified as “United States Postal Service CMRS-PB” or make deposits in your Reserve Account, in either case through electronic means, including Automated Clearinghouse Transfers. The USPS may, at its discretion, designate itself or a successor as recipient of Deposits made by you to the Lockbox Bank account described above.
- (c) Any deposit made by you in your Reserve Account is subject to the Reserve Account – Agreement and Disclosure Statement governing your Reserve Account.
- (d) Any Deposit made by you in the Lockbox Bank account shall be credited by the USPS only for the payment of evidence of postage. Such Deposits may be commingled with Deposits of other clients. You shall not receive or be entitled to any interest or other income earned on such Deposits.
- (e) The USPS will provide a refund to you for the remaining account balances of Deposits held by the USPS. These refunds are provided in accordance with the rules and regulations governing deposit of funds for evidence of postage, published in the CFR.
- (f) The Lockbox Bank, which shall collect funds on behalf of the USPS, shall provide PBI, on each business day, information as to the amount of each Deposit made to the USPS by you, so that PBI can update its records.
- (g) PBI may deposit funds on your behalf. The USPS will make no advances of funds to you. Any relationship concerning advances of funds is between you and PBI, PBGFS and/or the Bank.
- (h) You acknowledge that the terms of this Acknowledgement may be changed, modified, or revoked by the USPS, with appropriate notice.
- (i) Postal Regulations governing the deposit of funds are published in the CFR or its successor. You acknowledge that you shall be subject to all applicable rules, regulations, and orders of the USPS, including future changes to such rules, regulations, and orders, and such additional terms and conditions as may be determined in accordance with applicable law. The USPS rules, regulations, and orders shall prevail in the event of any conflict with any other terms and conditions applicable to any Deposit.

## **E. PURCHASE POWER TERMS**

### **1. Purchase Power Program**

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(a) The Purchase Power credit line is a product of the Bank and is not available to individuals for personal, family, or household purposes. In order to participate in the Purchase Power program (the “**Program**”), you must provide the information described in paragraph (h) below. You will receive a set of more specific provisions for the Program within thirty days of the date of this Agreement.

(b) Your Purchase Power account (the “**Account**”) will be charged for the amount of postage, products, and services requested and the related fees, if applicable. Unless prohibited by law, you agree to pay the fees and charges of which the Bank has given you notice, including those relating to: (i) applicable transaction or overage fees; (ii) your failure to pay in a timely manner; (iii) your exceeding your credit line; and (iv) fees attributable to the return of any checks.

(c) You will receive a billing statement for each billing cycle in which you have activity in the Account. The Bank may deliver any statement electronically to the email address that is on file for you. Payments are due by the due date shown on your billing statement. You may pay the entire balance due or a portion of the balance, provided that you pay at least the minimum payment shown on the statement. In the event of a partial payment, you will be responsible for the unpaid balance.

(d) (i) By using the Program, you agree that whenever there is an unpaid balance outstanding on the Account which is not paid in full by the due date shown on your billing statement, the Bank will charge you, and you will pay, interest on the unpaid balance of the Account from time to time, for each day from the date the transaction is posted to the Account until the date the unpaid balance is paid in full, at a variable rate equal to the Annual Percentage Rate applicable to the Account from time to time. (ii) The Annual Percentage Rate applicable to the Account will be: the greater of (x) 22% and (y) the sum of the highest “Prime Rate” published in the “Money Rates” section of *The Wall Street Journal* on the last business day of the month and the margin set forth below (the sum of the margin and the Prime Rate is herein called the “Floating Rate”). The Annual Percentage Rate will be adjusted on a monthly basis based on any fluctuation in the Floating Rate, if applicable. Any change in the Annual Percentage Rate based on the calculation described in this section will become effective on the first day of your next billing cycle. (iii) The margin which will be added to the Prime Rate to determine the Floating Rate will be 14.75% (using the Prime Rate in effect as of December 31, 2019, the daily periodic rate would be .05342% and the corresponding annual percentage rate would be 19.50%). (iv) The Account balance that is subject to a finance charge each day will include (x) outstanding balances, minus any payments and credits received by the Bank on the Account that day, and (y) unpaid interest, fees, and other charges on the Account. (v) The Bank will charge a minimum finance charge of \$1.00 in any billing cycle if the finance charge as calculated above is less than \$1.00. (vi) Each payment that you make will be applied to reduce the outstanding balance of the Account and replenish your available credit line. (vii) The Bank may refuse to extend further credit if the amount of a requested charge plus your existing balance exceeds your credit limit.

(e) The Bank may at any time close or suspend the Account, and may refuse to allow further charges to the Account. Cancellation or suspension will not affect your obligation to pay any amounts you owe.

(f) The Bank can amend any of the provisions and terms related to the Program at any time by written notice to you (including by electronic notice via the email address that is then on file for you). You are consenting to electronic delivery of any amendments to the Program terms. Each time you use the Program, you are signifying your acceptance of the terms then in effect. An amendment becomes effective on the date stated in the notice and will apply to any outstanding balance on the Account. The Bank may terminate the Program at any time and will notify you in the event of any termination. Any outstanding obligation will survive termination of the Program.

(g) The Program and any advances are governed by and construed in accordance with the laws of the State of Utah and applicable federal law.



(h) USA PATRIOT Act - To help the government fight the funding of terrorism and money laundering activities, Federal law requires financial institutions to obtain, verify and record information that identifies each person who opens an account. Accordingly, in order to activate the Account, the Bank asks that you agree to provide identifying information, including your address and taxpayer identification number. The Bank may also ask for additional identifying information, where appropriate, including asking that your representative who is opening the Account provide his/her name, address, date of birth, driver's license and/or other documents and information that will allow the Bank to identify him/her. You agree to provide all such requested identifying information.

## **F. PRODUCT SPECIFIC TERMS**

### **1. Software**

If you are acquiring an on-premise software license or on-demand subscription services, additional terms apply which are attached to the Participating Addendum.

### **2. PBBackup and PC-Backup Service Terms**

Certain provisions which apply when you utilize the PBBackup or PC-Backup services are set forth at [pitneybowes.com/us/pbbackup-service-and-pcbackup-service-terms.html](https://pitneybowes.com/us/pbbackup-service-and-pcbackup-service-terms.html) and are incorporated by reference.

### **3. AddressRight® Printers**

Certain provisions which apply when you purchase, lease or rent an AddressRight Printer are set forth at [pitneybowes.com/us/addressrightprinter-terms.html](https://pitneybowes.com/us/addressrightprinter-terms.html) and are incorporated by reference. Those provisions govern to the extent that they are inconsistent with the other terms of this Agreement, the PA or PA Ex 1.

### **4. DM Infinity**

In no event shall the term for a DM Infinity meter agreement go beyond June 30, 2026. In addition, in no event shall a new DM Infinity meter be placed (installed) after June 30, 2024.

By entering into this agreement you acknowledge the metering function as well as support for the DM Infinity meter under this agreement will end on June 30, 2026 due to USPS regulations. This means that the metering device will stop functioning on June 30, 2026 and you will not be able to meter your mail. Mail processed on a DM Infinity meter after June 30, 2026 will not be accepted by the USPS.

### **5. ADDITIONAL PROVISIONS TO THE PRODUCT SPECIFIC TERMS**

- a. Notwithstanding any terms referenced and/or incorporated by reference in sections F.2 through F.4 above.
  - i. fees in any Order will be fixed at our pricing in effect at the time the Order is issued, for the period for which you sign up for Services in the Order.
  - ii. any service or subscription in an Order begins and ends with the Initial Lease Term and does not automatically renew with a Renewal Lease Term unless you order (or have ordered) additional service or subscription(s) for the applicable Renewal Lease Term(s).
  - iii. any provision indicating your sole remedies is ineffective.
  - iv. any provision regarding risk of loss and regarding delivery of Equipment is ineffective.
  - v. the rate applicable to Overage(s) will be the rate in effect when the Overage first began.

- vi. You will only be automatically enrolled for maintenance service for replacement Equipment and/or components if your Order for same signs you up for such maintenance, and you may cancel such maintenance with 30 days' notice; and
- vii. You will not be bound by any terms requiring indemnification by the State to third-parties; consent to arbitration; provisions regarding audits; provisions regarding remote access to State systems; agreeing to be bound by the laws of another state; or to waive any claims or defenses, including governmental or sovereign immunity contained in any of the product-specific end user license agreements (EULA(s)) or any other documents, policies, or terms located in links referenced herein.

IN WITNESS WHEREOF, the Parties have executed this Participating Addendum.

**PARTICIPATING ENTITY**

**Pitney Bowes Global Financial Services LLC**

Signature:	Signature:
Name:	Name:
Title:	Title:
Date:	Date:

## SCHEDULE I.3 TO STATE OF MICHIGAN PARTICIPATING ADDENDUM

### OPTION C – NASPO VALUEPOINT FAIR MARKET VALUE LEASE AND ADDITIONAL TERMS AND CONDITIONS

Pitney Bowes Global Financial Services LLC (as defined below) will serve as a sub-contractor pursuant to the Master Agreement awarded under Solicitation BPM003137 and will be the Lessor under any Fair Market Value Lease. PBGFS does not warrant, service or otherwise support the equipment. Those services are provided by Pitney Bowes Inc. (PBI). Due to USPS regulations, only PBI can own a Meter. This document contains the lease terms that are applicable to any Order issued under the Master Agreement for a Fair Market Value Lease of Equipment.

The pricing plan for the NASPO ValuePoint Fair Market Value Lease Terms and Conditions is as follows:

#### Monthly Rate Factors:

<u>Term:</u>	<u>Lease Rate:</u>
24	.0466
36	.0329
48	.0261
60	.0221

Thank you for choosing Pitney Bowes products and services. These Terms, the executed order (the “**Order**”), your State’s Participating Addendum, including Schedules and Exhibits thereto and the NASPO ValuePoint Master Agreement and any Schedules and exhibits attached thereto, make up this Agreement. Please read this Agreement carefully.

Let’s start with a few definitions that should help you better understand your agreement. “**PBI**” means Pitney Bowes Inc. “**Pitney Bowes**” means PBI and its subsidiaries. “**You**” or “**your**” refers to the entity identified on the Order. “**Master Agreement**” means NASPO ValuePoint Master Agreement awarded under Solicitation BPM003137 for Mailing Equipment, Supplies and Maintenance contract administered by the State of Arizona and shall consist of: the solicitation as amended, any requests for clarifications and/or best and final offers, the proposal submitted by us, our responses to any requests for clarifications and/or our best and final offer. “**State Participating Addendum**” means the bilateral agreement executed by PBI and your participating state incorporating the Master Agreement. “**Meter**” means any postage meter supplied by PBI under the Order, including (i) in the case of a Connect+®, a SendPro® P series or a SendPro C series mailing system, the postal security device that accounts for and enables postage to be purchased and printed (“**PSD**”), and (ii) in the case of all other mailing systems, the PSD, the user interface or keyboard and display and the print engine. “**Meter Services**” means: access to the PSD to download, account for, and enable printing of postage within a PBI Postage Evidencing System as defined in Title 39, Part 501 of the Code of Federal Regulations (“**CFR**”); USPS mandated processes associated with the PSD, including registration, usage reporting and withdrawal; repair or replacement of the PSD as described in Section 27; and the Soft-Guard Program outlined in Section 29. “**Equipment**” means the equipment listed on the Order, excluding any Meter or standalone software. “**Lease**” means Lease terms and conditions set out in Sections A.1 through A.25. “**PA Ex 1**” means Exhibit 1 to the State Participating Addendum.

The provisions included in these Terms consist of: (i) Lease Terms; (ii) a Service Level Agreement (“**SLA**”); (iii) Equipment Rental and Meter Services Terms; (iv) an Acknowledgement of Deposit required by the United States Postal Service in any transaction involving a Meter; (v) Purchase Power® Terms for

a limited purpose credit line that may be available to you; and (vi) provisions relating to specific products; the Master Agreement, the Participating Addendum, Participating Addendum Exhibit 1 and all Schedules and Exhibits thereto.

## **A. LEASE TERMS**

### **1. Lease of Equipment; Provider of Leasing Services**

If you are leasing Equipment, these Lease terms apply. PBI is the manufacturer of the Equipment. Pitney Bowes Global Financial Services LLC, a wholly-owned subsidiary of PBI, or one of its subsidiaries (“PBGFS”), provides you with the leasing services and payment processing and related services. Except as otherwise provided herein, the duration or term of this Lease (“Lease Term”) will consist of an Initial Lease Term, which will end with your current fiscal year and “**Renewal Lease Terms**”, each of which is a subsequent fiscal year for which funds have been appropriated to make Lease Payments under the Lease. At the end of the Initial Term, and at the end of each Renewal Lease Term, the Lease Term will be automatically extended upon the successive appropriation by your legislative body of amounts sufficient to pay Lease Payments during your next succeeding fiscal year, or Renewal Lease Term, until all Lease Payments have been paid up to the number of months, as stated in the Order, unless the Lease Term ends earlier due to (i) termination at PBGFS’s option upon the occurrence of an event of default, provided that all payment obligations under this Lease for the current fiscal year for which a State appropriation has been made survive termination of this lease for such default, or (ii) termination for non-appropriation, termination for convenience under Section 8 or 9 below. For a New Lease, the Initial Lease Term begins on the date the Equipment is shipped if PBI doesn’t install the Equipment, and the date of installation if PBI installs the Equipment (“Install Equipment”). If you are entering into a Lease to enhance, upgrade or replace Equipment you are leasing from PBGFS, and if all Equipment has shipped and all Install Equipment has been installed, then your Lease Term will commence to align with your current periodic invoice date. By entering into the Lease, you confirm your intention to continue to lease the Equipment beyond the Initial Lease Term. **You may not cancel this Lease for any reason, except as expressly set forth in Section 8 and 9 below and all payments directly for lease of Equipment, (“Lease Payments”) are unconditional, except as provided herein.** You understand that PBGFS owns the Equipment. PBI owns any Meter as USPS regulations require. Except as stated in Section 3, you don’t have the right to become the owner of the Equipment at the end of the Lease Term.

### **2. Payment Terms**

PBGFS will invoice you quarterly in arrears for Lease Payments. If permitted in the Participating Addendum Exhibit 1, in addition to Lease Payments, PBGFS will invoice you quarterly in arrears for all additional payments on the Order, unless the Order says otherwise (each such payment is a “**Periodic Payment**”). You will make each Periodic Payment in accordance with the payment provisions of PA Ex 1. Your Periodic Payment may include, amounts carried over from a previous lease, software license and maintenance fees and other charges, if set forth in an Order. Any Meter Services fees, SLA fees and subscription fees (collectively “**PBI Payments**”) will be included with your Periodic Payment and begin with the start of the Lease Term. After the Lease Term, your Periodic Payment will increase if your PBI Payments increase. Any software license and maintenance fees and other charges, and any Meter Service fees, SLA fees, and subscription Fees, and any other payment that is not a Lease Payment, are not fees or payments directly for lease of Equipment and are not unconditional

Pursuant to 1984 PA 279, MCL 17.51-17.57, the State will pay PBGFS a charge on any Lease Payment, which remains unpaid after the date such Lease Payment is due. Lease Payments consist of principal and interest portions related solely to use and possession of Equipment PBGFS understands and intends, and the State understands and intends that the State’s obligation to pay Lease Payments under this Lease will constitute a current expense of the State of Michigan and will not in any way be construed to be a debt or general obligation of the State of Michigan in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by the State, including, but not limited to, Const 1963, art 9, §§12, 17, nor will anything contained herein or in a Lease constitute a pledge of the general tax revenues, credit, funds or monies of the State.

### **3. End of Lease Options**

During the 90 days before the final Renewal Lease Term of your Lease ends, you may, unless you are in default: (i) enter into a new lease or an amended lease with us; (ii) purchase the Equipment "as is, where is" for its fair market value; or (iii) return the Equipment and Meter in their original condition, reasonable wear and tear excepted, and pay us our then applicable processing fee (including any equipment return fee). If you return the Equipment and Meter, you will, as specified by us, either properly pack and return them to us in the return box and with the shipping label provided by us or furnish them to a service carrier specified by us to pick up and ship them to us. If you don't do one of the things listed in clause (i), (ii) or (iii) above, you will be deemed to have agreed to enter into successive month to month extensions of the term of this Lease, unless prohibited by law. You may choose to cancel the automatic extensions at any time by giving us 120 days' written notice by creating a case at [pitneybowes.com/us/contact-us.html](https://pitneybowes.com/us/contact-us.html) (follow the instructions under "how to create a case"). Upon cancellation, you agree to either return all items as provided in this Section 3 or purchase the Equipment.

### **4. WARRANTY AND LIMITATION OF LIABILITY**

**EACH OF PBGFS AND THE BANK (AS HEREINAFTER DEFINED) MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR FREEDOM FROM INTERFERENCE OR INFRINGEMENT, AND PBGFS AND THE BANK AREN'T LIABLE FOR ANY LOSS, DAMAGE (INCLUDING INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES) OR EXPENSE CAUSED DIRECTLY OR INDIRECTLY BY THE EQUIPMENT.**

### **5. Equipment Obligations**

You will keep the Equipment free from liens and in good condition and working order. We may inspect the Equipment and related maintenance records. You may not move the Equipment from the location specified on the Order without our prior written consent.

### **6. Security Interest**

You agree to cooperate in executing any necessary or appropriate Financing Statement(s) indicating our obligation with respect to the Lease.

### **7. Other Lease Terms**

- (a) If more than one lessee is named in this Lease, liability is joint and several.
- (b) You may not assign or sublet the Equipment, the Meter or this Agreement without our prior written consent. Any assignment without our consent is void. We may sell or assign all or part of this Lease or the Equipment, but it will not affect your rights or obligations.
- (c) We will provide you with a welcome letter by email.
- (d) All applicable taxes required to be collected by us will be shown on the invoice.

### **8. NON-APPROPRIATION**

If sufficient funds to enable you to continue payment on the lease (Lease Payments) are not appropriated, negatively appropriated, if there is a budget shortfall, or funds are otherwise not made available for a subsequent fiscal year, you may terminate the Lease effective at the end of the last fiscal year for which funds have been appropriated or otherwise made available for the Lease. You must give PBGFS notice

as soon as practical, but failure to provide such notice does not impact your right to terminate the Lease under this section.

## **9. EARLY TERMINATION**

If you cancel or terminate this Lease prior to expiration of the Lease Term (other than for non-appropriations), you shall pay a termination charge equal to the net present value of the monthly payments remaining through the completion of the term, discounted to present value at a rate of 6% per year.

The foregoing paragraph shall supersede Section 12(a)(ii) of these Terms.

## **10. PBGFS MAKES NO REPRESENTATION OR WARRANTY AS TO ANY THIRD PARTY EQUIPMENT. WE AGREE TO PASS THROUGH TO YOU ALL THIRD PARTY EQUIPMENT WARRANTIES TO THE EXTENT PERMITTED.**

## **11. Limitation of Liability**

**PBGFS's TOTAL LIABILITY (INCLUDING ANY LIABILITY OF ITS SUPPLIERS) IS LIMITED TO THE LEASE PAYMENTS PAID BY YOU FOR THE APPLICABLE EQUIPMENT. NEITHER PBGFS NOR ITS SUPPLIERS IS LIABLE FOR ANY: (I) DAMAGE YOU MAY INCUR BY REASON OF YOUR MISUSE OR NEGLIGENT USE OF THE EQUIPMENT OR YOUR NEGLIGENT ACTS OR OMISSIONS OR (II) INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY NATURE WHATSOEVER, INCLUDING COMMERCIAL LOSS, OR LOST PROFITS, DATA OR GOODWILL, FOR ANY MATTER RELATING TO THIS AGREEMENT.**

## **12. Default and Remedies**

(a) If you fail to make any lease payment with respect to leased Equipment within 14 days after we give you written notice of an overdue payment, or you breach any other obligation under this Agreement with PBGFS or with respect to Meter Rentals and such breach continues for 30 days after we give you notice or you become insolvent or file for bankruptcy, you will be in default and PBGFS or PBI may, as applicable:

- (i) cancel the Lease;
- (ii) require you to pay to PBGFS immediately all Lease Payments payable under the Lease for the remainder of the Initial Lease Term or Renewal Lease Term, as applicable and provided any previous appropriation for said purpose has not been reversed;
- (iii) disable the Meter;
- (iv) require you to return the Equipment and Meter, and delete or remove software; and deny you access to software;
- (v) if you don't return the Equipment, require you to immediately pay to us an amount equal to the value of the Equipment, as determined by us;
- (vi) charge you a check return fee for payments made by you with insufficient funds; and
- (vii) pursue any other remedy, including repossessing the Equipment and Meter without notice to you. To the extent permitted by law, you waive any notice of our repossession or disposition of the Equipment or Meter. By repossessing the Equipment or Meter, we aren't waiving our right to collect the balance due.

(b) We may suspend any services during any period that your account is more than thirty days past due.

### **13. Taxes**

The parties contemplate that the Equipment will be used for governmental purposes and that the Equipment will therefore be exempt from all property taxes. If the use, possession or acquisition of any Equipment is nevertheless determined to be subject to taxation, you will pay when due all taxes and governmental charges lawfully assessed or levied against or with respect to such Equipment. In addition, it is your intention and our intention that the interest portion of the Lease Payments you make be and remain free from federal income taxation. You will not intentionally perform or fail to perform any act or enter into any agreement or use or permit the use of the Equipment or any portion thereof in a manner that will have the effect of terminating the exemption from federal income taxation of the interest portion of the Lease payments.

### **14. Embedded Software; Applications**

(a) Our Equipment may contain embedded software. For embedded software, you agree that: (i) PBI and its licensors own the copyrights and other intellectual property to it; (ii) you are licensed only to use it with our Equipment in which it resides; (iii) you won't copy, modify, de-compile, or attempt to unbundle, reverse engineer or create derivative works of it; and (iv) you won't distribute or disclose it (or any portion) to anyone. The embedded software may contain third party software which is subject to any terms accompanying it. Technical support for embedded software will be given according to the SLA covering the Equipment with the embedded software.

(b) Certain products and services may provide you an opportunity to access applications provided by us or a third party. Each application you access will have its own terms and conditions applicable to your use of that application located within it, and by using the application you agree to those terms and conditions.

### **15. Miscellaneous**

(a) We will use your information in accordance with Exhibit 1 and our [Privacy Statement](#). In the event of a conflict between our Privacy Statement and Sections 30, 31 and 32 of Exhibit 1, Exhibit 1 shall govern.

(b) You agree to use the Equipment and Meter only for business, commercial, or governmental purposes, and not for personal, family, or household purposes.

(c) Except as required by Executive Order or Directive, or Legislative action, you may not assign this Agreement without our prior written consent and you will provide us with notice of any such assignment as soon as practical

(d) Lease Payments, aren't subject to setoff or reduction.

(e) This Agreement can only be changed if we both agree to do so in writing. You may use an Order to offer to obtain equipment but none of its provisions will modify or supersede these provisions unless we expressly agree in writing. If any provision in this Lease is found to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions won't be affected.

(f) Our respective rights and obligations under Sections 11 (Limitation of Liability), 12 (Default and Remedies) and 13 (Taxes) will survive termination of this Agreement.

(g) We may deliver any notice and other communication to you under this Lease by email to the email address that we have on file for you. You agree to the delivery of these notices and other communications by email. We may call you at any number you give to us.

(h) You agree to comply with all applicable export control laws and regulations.

- 16. Conflicts and Ethics.** PBGFS will uphold high ethical standards and is prohibited from: (a) holding or acquiring an interest that would conflict with this Lease; (b) doing anything that creates an appearance of impropriety with respect to the award or performance of the Lease; (c) attempting to influence or appearing to influence any State employee by the direct or indirect offer of anything of value; or (d) paying or agreeing to pay any person, other than employees and consultants working for PBGFS, any consideration contingent upon the award of the Lease. PBGFS must immediately notify the State of any violation or potential violation of these standards. This Section applies to PBGFS, any parent, affiliate, or subsidiary organization of PBGFS, and any subcontractor.
- 17. Compliance with Laws.** The parties must comply with all federal, state and local laws, rules and regulations applicable to the Lease.
- 18. Nondiscrimination.** Under the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, *et seq.*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, *et seq.*, and [Executive Directive 2019-09](#). PBGFS and its subcontractors agree not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex (as defined in Executive Directive 2019-09), height, weight, marital status, partisan considerations, any mental or physical disability, or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. Breach of this covenant is a material breach of this Contract.
- 19. Unfair Labor Practice.** Under MCL 423.324, the State may void any contract or Lease with a PBGFS or subcontractor who appears on the Unfair Labor Practice register compiled under MCL 423.322.
- 20. Governing Law.** This Lease is governed, construed, and enforced in accordance with Michigan law, excluding choice-of-law principles, and all claims relating to or arising out of this Lease are governed by Michigan law, excluding choice-of-law principles. Any dispute arising from this Contract must be resolved in the Michigan Court of Claims. Complaints against the State must be initiated in Ingham County, Michigan. PBGFS waives any objections, such as lack of personal jurisdiction or *forum non conveniens*. PBGFS must appoint an agent in Michigan to receive service of process.
- 21. Non-Exclusivity.** Nothing contained in this Lease is intended nor is to be construed as creating any requirements contract with PBGFS, nor does it provide PBGFS with a right of first refusal for any future work. This Lease does not restrict the State or its agencies from acquiring similar, equal, or like services or Equipment from other sources.
- 22. Limitation of Liability and Disclaimer of Damages.** **IN NO EVENT WILL THE STATE'S AGGREGATE LIABILITY TO PBGFS UNDER THIS LEASE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR BY STATUTE OR OTHERWISE, FOR ANY CLAIM RELATED TO OR ARISING UNDER THIS CONTRACT, EXCEED THE MAXIMUM AMOUNT OF FEES PAYABLE UNDER THE APPLICABLE ORDER.** The State shall not be liable for consequential, incidental, indirect, or special damages, regardless of the nature of the action.
- 23. Records Maintenance, Inspection, Examination, and Audit.** Pursuant to MCL 18.1470, the State or its designee may audit PBGFS's records to verify compliance with this Lease. PBGFS must retain and provide to the State or its designee and the auditor general upon request, all financial and accounting records related to the Lease through the Lease Term of the Lease and for 4 years after the latter of termination, expiration, or final payment under this Contract or any extension ("**Audit Period**"). If an audit, litigation, or other action involving the records is initiated before the end of the Audit Period, PBGFS must retain the records until all issues are resolved.

Within 10 calendar days of providing notice, the State and its authorized representatives or designees have the right to enter and inspect PBGFS's premises or any other places where services are being performed, and examine, copy, and audit all records related to this Lease. PBGFS must cooperate



and provide reasonable assistance. If financial errors are revealed, the amount in error must be reflected as a credit or debit on subsequent invoices until the amount is paid or refunded. Any remaining balance at the end of the Lease Term must be paid or refunded within 45 calendar days. This Section applies to PBGFS, any parent, affiliate, or subsidiary organization of PBGFS, and any subcontractor that performs services or provides Equipment in connection with this Lease.

24. PBGFS represents that it is neither currently engaged in nor will engage in the boycott of a person based in or doing business with a strategic partner as described in 22 USC 8601 to 8606;

25. **Waiver.** Failure to enforce any provision of this Lease will not constitute a waiver.

## **B. SERVICE LEVEL AGREEMENT**

### **1. Applicability of SLA**

This SLA section applies to you if an Order contains a request to provide service for any Equipment PBGFS leases, or PBI rents or sells on the Order, excluding Equipment with charges based on volume of use (“**Usage-based Equipment**”) and any DI2000™ (the covered equipment is called “**Covered Equipment**”). PBI provides the warranties set forth in the Participating Addendum and the Master Agreement.

### **2. Service Level Options**

(a) (i) If you sign up for **Standard SLA** on the Order, PBI will provide at its option either repair or replacement services for the Covered Equipment during the Initial Service Term or any Renewal Service Term (each term as defined in Section 21) (the “**Service Term**”). You are also entitled to: (x) replacement printheads for Covered Equipment without additional charge, except for printheads which need to be replaced as a result of any Excluded Circumstance, and except for integrated printhead/ink cartridges; and (y) two preventative maintenance service calls per calendar year. PBI will notify you when preventative maintenance is due or you can request preventative maintenance service. If your Covered Equipment needs repair, PBI may provide repair by remote access, diagnostics and service and/or by on-site repair service. Repair service is provided only for damage resulting from normal wear and tear. Repair service may include the use of new, reconditioned, or remanufactured parts and assemblies. PBI will provide parts or assemblies for discontinued equipment (or equipment not marketed as new) only if available. If PBI deems it necessary, PBI will dispatch a service technician to arrive at your location for on-site service. You won’t incur hourly charges unless service is performed outside Normal Working Hours, which will be done only with your consent. “**Normal Working Hours**” means 8 a.m. – 5 p.m., Monday – Friday, excluding PBI-observed U.S. holidays, in the time zone where the Equipment or other items are located. There is no warranty for Excluded Circumstances. “**Excluded Circumstance**” is a circumstance outside of PBI’s control, including an accident, your negligent or reckless use of the equipment, use of the equipment which exceeds our recommendations or in a way not authorized by this Agreement or any operator guide, use of the equipment in an environment with unsuitable humidity, line voltage, damage in transit, software virus not solely caused by us, loss of data, loss or fluctuation of power, fire, flood or other natural causes, and other external forces beyond our control, servicing of the equipment by someone other than us, failure to use required software updates, use of the equipment with any system where PBI has told you that PBI will no longer provide support or that PBI has advised you is no longer compatible, or use of third party supplies (such as ink), hardware or software that results in (i) damage to equipment (including damage to printheads), (ii) poor indicia, text or image print quality, (iii) indicia readability failures or (iv) a failure to print indicia, text or images.

(ii) If PBI determines that replacement of Covered Equipment is necessary, PBI will, at no additional cost to you, promptly ship new, reconditioned, or remanufactured equipment of the

same or a functionally equivalent model to replace the affected Covered Equipment. Unless PBI instructs you otherwise, within five days of receiving the replacement equipment, you must pack the Covered Equipment to be replaced in the shipping carton that contained the replacement equipment, place the pre-paid return address label on the carton, and return it to PBI. You are responsible for the Covered Equipment until PBI receives it.

(b) The print engine(s), print engine components, structural components and printed circuit board assemblies supplied with or within the PBI Equipment may be reclaimed, reconditioned or remanufactured. These items are warranted to perform according to the same standards as the equivalent new item.

(c) The warranty doesn't cover ink, integrated printhead/ink cartridges, ink rollers, toner and drum cartridges, ribbons and similar items ("**Consumable Supplies**").

(d) **PBI MAKES NO REPRESENTATION OR WARRANTY AS TO ANY THIRD PARTY EQUIPMENT. WE AGREE TO PASS THROUGH TO YOU ALL THIRD PARTY EQUIPMENT WARRANTIES TO THE EXTENT PERMITTED.**

(e) **YOUR SOLE REMEDY FOR A WARRANTY CLAIM IS TO HAVE US REPAIR OR REPLACE THE PBI EQUIPMENT OR, IN THE CASE OF DEFECTIVE SERVICE, REPERFORM THE SERVICE.**

### **3. Service Term**

PBI will provide you with Service, as set forth and for the duration stated in the applicable Order. PBI reserves the right not to renew your SLA for any reason.

### **4. SLA Fees**

You will pay the SLA fees) as identified in the Order, subject to our right to terminate the Lease and your right to terminate the Lease for the applicable Equipment or to terminate Services as set forth in PA Ex 1. SLA fees in any Order will be fixed at our pricing in effect at the time the Order is issued, for the period for which you sign up for Services in the Order. We may increase the SLA fees after the Initial Service Term, and any increases will be reflected on your invoice and shall be in accordance with the terms of the Master Agreement. If you receive service for repairs caused by any Excluded Circumstance, PBI will charge you for the service at PBI's current hourly rates and for any required parts. If you exceed the cycle volume of your Equipment specified on the Order, PBI may bill you for the additional cycles over the specified cycle volume (the additional cycles are called the "Overage"). The charge will be determined by reference to the rate in effect at the time that that an Overage first began. Upon request, you will provide the cycle volume to us. If you do not provide the cycle volume to us, PBI will estimate the cycle volume and send an invoice to you for any Overage based on our estimate. If, in the prior quarter, PBI estimated cycle volume and later receive actual cycle volume, then PBI will make adjustments based on actual usage on your next invoice.

### **5. Service Changes**

PBI may modify its Service by giving written notice to you (a "**Service Change Notice**"), which will state whether the change is material. After receiving a Service Change Notice, if the change is material, you may terminate Service by creating a case at [pitneybowes.com/us/contact-us.html](https://pitneybowes.com/us/contact-us.html) (follow the instructions under "how to create a case").

### **6. Additional Service Terms**

You can't elect to have Service apply to some but not all of the items of Equipment. Service doesn't include services and repairs that are made necessary due to any Excluded Circumstance. Service excludes the supply of postal and carrier rate changes and Consumable Supplies. If you replace any of your Covered Equipment during the Service Term, and the replacement Equipment qualifies for Services,

and your Order for the replacement Equipment includes Services, PBI will automatically enroll you for maintenance coverage on the new Equipment at PBI's then current annual rates. If you acquire an attachment, or add a unit, to your Covered Equipment, PBI will provide coverage for each attachment or unit which PBI determine qualifies for coverage under the SLA and adjust your rate accordingly. If you choose not to continue coverage on the replacement Equipment, attachment or unit, you may cancel Service for the item with 30 days notice. If you cancel, any further maintenance or repair services on the Equipment, attachment or unit will be subject to PBI's current rates. Standard SLA will apply to rented Equipment at no additional charge.

## **7. Internet Access Point**

The internet connectivity for the Equipment or Meter may use an internet access point provided by us. You may only use this access point for connectivity between the Equipment or Meter and the internet and for no other purpose. Neither PBI nor PBGFS will be responsible for any costs resulting from your use of the access point in violation of this restriction.

## **C. EQUIPMENT RENTAL AND METER SERVICES TERMS**

### **1. Equipment Rental and Meter Services**

This Equipment Rental and Meter Services Section applies to you whenever you rent Equipment and whenever you obtain Meter Services from us.

(a) If you aren't leasing the Equipment and paying for it in your lease payment to PBGFS, PBI will invoice you the Equipment rental ("rental") and Meter Services fees listed on the Order. After the period listed on the Order (the "**Initial Term**"), PBI or PBGFS may increase the rental and/or Meter Services fees in accordance with the Master Agreement. When you receive notice of an increase, you may terminate your rental or Meter Services only as of the date the increase becomes effective.

(b) At the end of the Initial Term, unless prohibited by law, the rental term and Meter Services term will convert to successive month to month extensions. You may choose to cancel the month to month extensions at any time by giving us 30 days' prior written notice by creating a case at [pitneybowes.com/us/contact-us.html](https://pitneybowes.com/us/contact-us.html) (follow the instructions under "how to create a case"). Upon expiration of the term of the rental or Meter Services, you agree to return Equipment and Meters covered by the rental and Meter Services agreement in their original condition, reasonable wear and tear excepted. PBI reserves the right to recover or disable the Meter and terminate your use at any time if you are in violation of USPS regulations.

### **2. Postage**

You may transfer funds to The Pitney Bowes Bank, Inc. (the "Bank") for deposit into your Reserve Account that you maintain with the Bank (your "**Reserve Account**") or you may transfer funds to the United States Postal Service (the "**USPS**") through a lockbox bank (a "**Lockbox Bank**"). See the "USPS Acknowledgment of Deposit" below for more information. Until the end of the Initial Term, PBI may charge you a fee of up to \$15.00 for refilling your postage. After the Initial Term, PBI may increase postage refill fees upon 30 days prior written notice. If you participate in any PBI, PBGFS, or Bank postage advance programs (such as Purchase Power), PBI will advance payment on your behalf to the USPS, subject to repayment by you under the terms of the postage advance program and billed separately from your Meter Services fees.

### **3. Meter Repair or Replacement; Meter Care and Risk of Loss**

If the Meter malfunctions or fails due to reasons other than an Excluded Circumstance, PBI will repair or replace the Meter. You agree to take proper care of the Meter(s), as stated in this Agreement and any user documentation. You assume all risk of loss or damage to the Meter(s) while you have possession.

#### **4. Terms of Use of Meter; Federal Regulations**

(a) You may use the Meter solely for the purpose of processing your mail, provided that you are authorized by the USPS to use the Meter, and that you comply with (i) this Agreement, (ii) any operator guide and (iii) all USPS regulations. You agree to use only attachments or printing devices authorized by us. You must receive our written consent before moving the Equipment or Meter to a different location. Federal regulations require that PBI own the Meter. Tampering with or misusing the Meter is a violation of federal law. Activities of the USPS, including the payment of refunds for postage by the USPS to clients, will be made in accordance with the current Domestic Mail Manual. If the Meter is used in any unlawful scheme, or isn't used for any consecutive 12 month period, or if you take the Meter or allow the Meter to be taken outside the United States without proper written permission of USPS Headquarters, or if you enter a series of unpaid or short-paid mail pieces and/or packages in the mail stream, or if you resell the postage pricing that PBI offers under this Agreement to any third party, or if you are in possession of a decertified system, or if you otherwise fail to abide by the postal regulations and this Agreement regarding care and use of the Meter, then this Agreement and any related Meter Services agreement may be revoked. You acknowledge that any use of a Meter that fraudulently deprives the USPS of revenue can cause you to be subject to civil and criminal penalties applicable to fraud and/or false claims against the United States. The submission of a false or fraudulent statement can result in imprisonment of up to 5 years and fines of up to \$10,000 (18 U.S.C. 1001) and a civil penalty of up to \$5,000 plus an assessment of twice the amount falsely claimed (3 U.S.C. 3802). The mailing of matter bearing a fraudulent postage meter imprint is an example of a violation of these statutes. You are responsible for immediately reporting (within 72 hours or less) the theft or loss of the Meter to us. Failure to comply with this notification provision in a timely manner may result in the denial of refund of any funds remaining on the Meter at the time of loss or theft. You understand that the rules and regulations regarding the use of this Meter as documented in the Domestic Mail Manual may be updated from time to time by the USPS and it is your obligation to comply with any rules and regulations regarding its use.

(b) You agree that you will not resell or attempt to resell the postage pricing that PBI offers you under this Agreement to any other party.

(c) USPS Privacy Act Statement: Your information will be used to facilitate the purchase of USPS postage and fulfill transactional reporting requirements for USPS postage systems. Collection is authorized by 39 U.S.C. 401, 403, and 404. Providing the information is voluntary, but if not provided, your transaction may not be processed. USPS does not disclose your information to third parties without your consent, except to facilitate the transaction, to act on your behalf or request, or as legally required. This includes the following limited circumstances: to a congressional office on your behalf; to financial entities regarding financial transaction issues; to a USPS auditor; to entities, including law enforcement, as required by law or in legal proceedings; and to contractors and other entities aiding us to fulfill the service (service providers). For more information regarding USPS privacy policies, visit [www.usps.com/privacypolicy](http://www.usps.com/privacypolicy).

#### **5. Rate Updates and Soft-Guard® Program**

Your Meter or Equipment may require periodic rate updates that you will obtain under our Soft-Guard program. PBI will provide rate updates only if required due to a postal or carrier change in rate, service, ZIP Code™ or zone change. The Soft-Guard program doesn't cover any change in rates due to custom rate changes, new classes of carrier service, or a change in ZIP Code or zone due to equipment relocation. PBI won't be responsible for any losses arising out of or resulting from the failure of rating or software downloads to conform to published rates.

## 6. Collection of Information

You authorize us to access and download information from your Meter or from your PC Postage account. PBI may disclose this information to the USPS or other authorized governmental entity. PBI won't share with any third parties (except the USPS or other governmental entity) individually identifiable information that PBI obtain about you in this manner unless required to by law or court order. PBI may elect to share de-identified aggregate data about our clients' postage usage with third parties.

## 7. Value Based Services

Value based services are services the USPS provides, including e-Return Receipt and USPS Confirmation Services. Any fees the USPS charges for these services are your responsibility to pay for and are payable the same way that you pay for postage. The USPS is solely responsible for its services. PBI is not responsible for any malfunctions of any part of the communication link connecting the Meter with the USPS data system. The value based services provided by the USPS are provided without any warranty of any kind, either express or implied, including the warranty of merchantability or fitness for a particular purpose. PBI is not liable for any damages you may incur by reason of your use of the value based services provided by the USPS, including incidental, consequential, or punitive damages. PBI has the right to terminate the value based services if the USPS discontinues offering the service or you breach your obligations under this Agreement and fail to cure the breach within thirty days after you have been notified in writing.

## D. USPS ACKNOWLEDGEMENT OF DEPOSIT

### 1. Acknowledgement of Deposit

This section of this Agreement provides you with the sections that the USPS requires PBI include in any agreement where PBI is providing Meter Services. The USPS requires that PBI use specific language. The "acknowledgement of deposit" terms are as follows:

- (a) In connection with your use of a Postage Evidencing System, you may transfer funds to the USPS through a Lockbox Bank for the purpose of prepayment of postage on Postage Evidencing Systems, generating evidence of postage (a "**Deposit**"), or you may transfer funds to the Bank for deposit into your Reserve Account.
- (b) To the extent you deposit funds in advance of the use of any evidence of postage, you may make Deposits in the Lockbox Bank account identified as "United States Postal Service CMRS-PB" or make deposits in your Reserve Account, in either case through electronic means, including Automated Clearinghouse Transfers. The USPS may, at its discretion, designate itself or a successor as recipient of Deposits made by you to the Lockbox Bank account described above.
- (c) Any deposit made by you in your Reserve Account is subject to the Reserve Account – Agreement and Disclosure Statement governing your Reserve Account.
- (d) Any Deposit made by you in the Lockbox Bank account shall be credited by the USPS only for the payment of evidence of postage. Such Deposits may be commingled with Deposits of other clients. You shall not receive or be entitled to any interest or other income earned on such Deposits.
- (e) The USPS will provide a refund to you for the remaining account balances of Deposits held by the USPS. These refunds are provided in accordance with the rules and regulations governing deposit of funds for evidence of postage, published in the CFR.
- (f) The Lockbox Bank, which shall collect funds on behalf of the USPS, shall provide PBI, on each business day, information as to the amount of each Deposit made to the USPS by you, so that PBI can update its records.

(g) PBI may deposit funds on your behalf. The USPS will make no advances of funds to you. Any relationship concerning advances of funds is between you and PBI, PBGFS and/or the Bank.

(h) You acknowledge that the terms of this Acknowledgement may be changed, modified, or revoked by the USPS, with appropriate notice.

(i) Postal Regulations governing the deposit of funds are published in the CFR or its successor. You acknowledge that you shall be subject to all applicable rules, regulations, and orders of the USPS, including future changes to such rules, regulations, and orders, and such additional terms and conditions as may be determined in accordance with applicable law. The USPS rules, regulations, and orders shall prevail in the event of any conflict with any other terms and conditions applicable to any Deposit.

## **E. PURCHASE POWER TERMS**

### **1. Purchase Power Program**

(a) The Purchase Power credit line is a product of the Bank and is not available to individuals for personal, family, or household purposes. In order to participate in the Purchase Power program (the "**Program**"), you must provide the information described in paragraph (h) below. You will receive a set of more specific provisions for the Program within thirty days of the date of this Agreement.

(b) Your Purchase Power account (the "**Account**") will be charged for the amount of postage, products, and services requested and the related fees, if applicable. Unless prohibited by law, you agree to pay the fees and charges of which the Bank has given you notice, including those relating to: (i) applicable transaction or overage fees; (ii) your failure to pay in a timely manner; (iii) your exceeding your credit line; and (iv) fees attributable to the return of any checks.

(c) You will receive a billing statement for each billing cycle in which you have activity in the Account. The Bank may deliver any statement electronically to the email address that is on file for you. Payments are due by the due date shown on your billing statement. You may pay the entire balance due or a portion of the balance, provided that you pay at least the minimum payment shown on the statement. In the event of a partial payment, you will be responsible for the unpaid balance.

(d) (i) By using the Program, you agree that whenever there is an unpaid balance outstanding on the Account which is not paid in full by the due date shown on your billing statement, the Bank will charge you, and you will pay, interest on the unpaid balance of the Account from time to time, for each day from the date the transaction is posted to the Account until the date the unpaid balance is paid in full, at a variable rate equal to the Annual Percentage Rate applicable to the Account from time to time. (ii) The Annual Percentage Rate applicable to the Account will be: the greater of (x) 22% and (y) the sum of the highest "Prime Rate" published in the "Money Rates" section of *The Wall Street Journal* on the last business day of the month and the margin set forth below (the sum of the margin and the Prime Rate is herein called the "Floating Rate"). The Annual Percentage Rate will be adjusted on a monthly basis based on any fluctuation in the Floating Rate, if applicable. Any change in the Annual Percentage Rate based on the calculation described in this section will become effective on the first day of your next billing cycle. (iii) The margin which will be added to the Prime Rate to determine the Floating Rate will be 14.75% (using the Prime Rate in effect as of December 31, 2019, the daily periodic rate would be .05342% and the corresponding annual percentage rate would be 19.50%). (iv) The Account balance that is subject to a finance charge each day will include (x) outstanding balances, minus any payments and credits received by the Bank on the Account that day, and (y) unpaid interest, fees, and other charges on the Account. (v) The Bank will charge a minimum finance charge of \$1.00 in any billing cycle if the finance charge as calculated above is less than \$1.00. (vi) Each payment that you make will be applied to reduce the outstanding balance of the Account and replenish your available credit line. (vii) The Bank may refuse to extend further credit if the amount of a requested charge plus your existing balance exceeds your credit limit.

(e) The Bank may at any time close or suspend the Account, and may refuse to allow further charges to the Account. Cancellation or suspension will not affect your obligation to pay any amounts you owe.

(f) The Bank can amend any of the provisions and terms related to the Program at any time by written notice to you (including by electronic notice via the email address that is then on file for you). You are consenting to electronic delivery of any amendments to the Program terms. Each time you use the Program, you are signifying your acceptance of the terms then in effect. An amendment becomes effective on the date stated in the notice and will apply to any outstanding balance on the Account. The Bank may terminate the Program at any time and will notify you in the event of any termination. Any outstanding obligation will survive termination of the Program.

(g) The Program and any advances are governed by and construed in accordance with the laws of the State of Utah and applicable federal law.

(h) USA PATRIOT Act - To help the government fight the funding of terrorism and money laundering activities, Federal law requires financial institutions to obtain, verify and record information that identifies each person who opens an account. Accordingly, in order to activate the Account, the Bank asks that you agree to provide identifying information, including your address and taxpayer identification number. The Bank may also ask for additional identifying information, where appropriate, including asking that your representative who is opening the Account provide his/her name, address, date of birth, driver's license and/or other documents and information that will allow the Bank to identify him/her. You agree to provide all such requested identifying information.

## **F. PRODUCT SPECIFIC TERMS**

### **1. Software**

If you are acquiring an on-premise software license or on-demand subscription services, additional terms apply which are attached to the Participating Addendum.

### **2. DI2000 Inserting System Terms**

Certain provisions which apply when you purchase, lease or rent a DI2000 inserting system and when you purchase a service plan for it are set forth at [pitneybowes.com/us/state-and-local-government-solutions/states.html](http://www.pitneybowes.com/us/state-and-local-government-solutions/states.html) <http://www.pitneybowes.com/us/di2000-terms.html> and are incorporated by reference. Those provisions govern to the extent that they are inconsistent with the other terms of this Agreement, the PA or PA Ex 1.

### **3. PBBackup and PC-Backup Service Terms**

Certain provisions which apply when you utilize the PBBackup or PC-Backup services are set forth at [pitneybowes.com/us/pbbackup-service-and-pcbackup-service-terms.html](http://www.pitneybowes.com/us/pbbackup-service-and-pcbackup-service-terms.html) and are incorporated by reference.

### **4. Pitney Bowes Intelligent Locker Solutions**

You must keep the Equipment insured against Loss for its full replacement value under a comprehensive policy of Insurance. The Pitney Bowes Intelligent Locker Solutions may include a statement of work.

### **5. AddressRight® Printers**

Certain provisions which apply when you purchase, lease or rent an AddressRight Printer are set forth at [pitneybowes.com/us/addressrightprinter-terms.html](http://www.pitneybowes.com/us/addressrightprinter-terms.html) and are incorporated by reference. Those provisions govern to the extent that they are inconsistent with the other terms of this Agreement, the PA or PA Ex 1.

### **6. DM Infinity**

In no event shall the term for a DM Infinity meter agreement go beyond June 30, 2026. In addition, in no event shall a new DM Infinity meter be placed (installed) after June 30, 2024.

By entering into this agreement you acknowledge the metering function as well as support for the DM Infinity meter under this agreement will end on June 30, 2026 due to USPS regulations. This means that the metering device will stop functioning on June 30, 2026 and you will not be able to meter your mail. Mail processed on a DM Infinity meter after June 30, 2026 will not be accepted by the USPS.

## **7. ADDITIONAL PROVISIONS TO THE PRODUCT SPECIFIC TERMS**

- a. Notwithstanding any terms referenced and/or incorporated by reference in sections F2 through F.6 above.
  - i. fees in any Order will be fixed at our pricing in effect at the time the Order is issued, for the period for which you sign up for Services in the Order.
  - ii. any service or subscription in an Order begins and ends with the Initial Lease Term and does not automatically renew with a Renewal Lease Term unless you order (or have ordered) additional service or subscription(s) for the applicable Renewal Lease Term(s).
  - iii. any provision indicating your sole remedies is ineffective.
  - iv. any provision regarding risk of loss and regarding delivery of Equipment is ineffective.
  - v. the rate applicable to Overage(s) will be the rate in effect when the Overage first began.
  - vi. You will only be automatically enrolled for maintenance service for replacement Equipment and/or components if your Order for same signs you up for such maintenance, and you may cancel such maintenance with 30 days' notice; and
  - vii. You will not be bound by any terms requiring indemnification by the State to third-parties; consent to arbitration; provisions regarding audits; provisions regarding remote access to State systems; agreeing to be bound by the laws of another state; or to waive any claims or defenses, including governmental or sovereign immunity contained in any of the product-specific end user license agreements (EULA(s)) or any other documents, policies, or terms located in links referenced herein.



IN WITNESS WHEREOF, the Parties have executed this Participating Addendum.

**PARTICIPATING ENTITY**

**Pitney Bowes Global Financial Services LLC**

Signature:	Signature:
Name:	Name:
Title:	Title:
Date:	Date: